



GUIDANCE NOTE ON COVERAGE OF THE COAL MINING INDUSTRY LONG SERVICE LEAVE SCHEME

PURPOSE AND NATURE OF THIS GUIDANCE NOTE

This information aims to provide guidance regarding eligibility for the long service leave scheme that applies to Australia's black coal mining industry.

The scheme is governed by the Coal Mining Industry (Long Service Leave) Administration Act 1992 (the Act) and associated legislation. Coal LSL is responsible for regulating and managing the scheme.

Reference to a 'mine' or 'coal mine' refers to a black coal mine.

WHAT IS THE DEFINITION OF AN "ELIGIBLE EMPLOYEE"?

The scheme applies to eligible employees and employers of eligible employees.

The definition of "eligible employee" in the Act (section 4) is as follows:

eligible employee means:

- (a) an employee who is employed in the black coal mining industry by an employer engaged in the black coal mining industry, whose duties are directly connected with the day to day operation of a black coal mine; or
- (b) an employee who is employed in the black coal mining industry, whose duties are carried out at or about a place where black coal is mined and are directly connected with the day to day operation of a black coal mine; or
- (c) an employee permanently employed with a mine rescue service for the purposes of the black coal mining industry; or
- (d) a prescribed person who is employed in the black coal mining industry;

but does not include a person declared by the regulations not to be an eligible employee for the purposes of this Act.

So far there have been no regulations prescribing persons under definition (d) or excluding persons from these definitions.

Part (a) of the definition assesses **both** the industry of the employer and the duties of the employee.

Part (b) of the definition is assessing an employee's **duties** and **where** those duties are carried out. This is not an assessment of the primary industry of the employer, but the industry in which the employee performs their duties.

Part (c) of the definition is specific to employees of the mines rescue service.

To be an eligible employee of the scheme, eligibility will be determined by assessment of the employee's role and their primary duties.

Employers are required to pay levies to Coal LSL for employees deemed eligible under the scheme, whether their organisation (as a whole) is working in the black coal mining industry or not.

WHEN MAY THE DUTIES OF AN EMPLOYEE BE DIRECTLY CONNECTED WITH THE DAY TO DAY OPERATION OF A BLACK COAL MINE?

A range of matters are considered when determining whether an employee's duties are directly connected with the day to day operation of a black coal mine, such as:

Nature of duties/work performed

Work must be connected to the mining operation. This applies regardless of work status e.g. full time, part time, casual, contract or skill/labour hire.

Level of involvement in daily mining operations

Work must be performed regularly, on an ongoing basis.

Supervision

The employee may be supervised by an employee of the mine operator.

Embedded work

Work performed may be embedded in the ongoing operation of the mine rosters and other work arrangements.

Location of work

The location of work is where duties are performed e.g. a mine site, an industrial park, or complex. The majority of time working must be at or about the place where black coal is mined.

In brief, we assess the circumstances in which the employee is employed to do their work.

No single factor is determinative. All factors are viewed in totality.

WHAT IS THE MEANING OF BLACK COAL MINING INDUSTRY?

Section 4 of the Act says:

black coal mining industry has the same meaning as in the Black Coal Mining Industry Award 2010 as in force on 1 January 2010.