

Applications to recognise and calculate prior service

Policy and procedure for considering applications

When considering applications to recognise and calculate the prior service of current or former eligible employees under Schedule 5 of the *Coal Mining Industry (Long Service Leave) Legislation Amendment Act 2011 (the Transition Act)*, the Corporation intends to apply the following policies and procedures.

1. The Corporation will not consider an application that is not in the form provided on the Corporation's website or available from the Corporation on request.
2. The Corporation will require evidence from an applicant that is sufficiently relevant to demonstrate to the Corporation that on balance, the information is correct and the employment before 1 January 2012 was:
 - (a) in the black coal mining industry;
 - (b) of a particular type (ie full time, part-time or casual);
 - (c) took place for the period claimed; and
 - (d) should not be disregarded.
3. The Corporation will give more weight to information or documents to the extent that they:
 - (a) are originals or true copies;
 - (b) are relevant to showing that the applicant is or was an eligible employee in the black coal mining industry and the period of that employment;
 - (c) can be corroborated or tested by the Corporation;
 - (d) are accompanied by a statutory declaration;
 - (e) refer to the applicant by name;
 - (f) include specific employment details (ie employer names, dates and locations);
 - (g) are not substantially post-dated in relation to the period of employment being evidenced by the information or document;
 - (h) are not obviously fraudulent; and
 - (i) are not simply assertions of fact.
4. The Corporation will give more weight to direct evidence of employment in the black coal mining industry. Examples of direct evidence are:
 - (a) certificates of employment service from the employer;

- (b) letters of appointment or termination from the employer;
- (c) contracts of employment;
- (d) Australian Workplace Agreements; or
- (e) employer time and wage records.

Note: See the "Notes on completing the application form" for further examples of direct evidence.

5. The Corporation will give some weight to indirect evidence of employment in the black coal mining industry. Examples of indirect evidence are:

- (a) personal tax records;
- (b) personal superannuation records;
- (c) accounting records; or
- (d) bank account records.

Note: See the "Notes on completing the application form" for further examples of indirect evidence.

6. The Corporation expects that information or documents relied upon in an application will be:

- (a) obtained by the applicant; and
- (b) sent with the application.

7. The Corporation does not generally intend to use its statutory powers to require information from employers or other persons for the purposes of determining an application.

8. The Corporation does not generally intend to request further information from applicants about their application before deciding whether it is correct or not. This is particularly so when the information in an application:

- (a) is clearly not relevant to the employee's service in the black coal mining industry;
- (b) is not accompanied by a statutory declaration; or
- (c) does no more than confirm the records held by the Corporation about the applicant.

9. If during the consideration process, the Corporation does request further information from an applicant within a reasonable period, or an applicant undertakes to provide further information within a specified period acceptable to the Corporation, the Corporation will proceed to make a decision on the application in the absence of that information, where the period has ended and the information has not been provided.

10. During the consideration process, the Corporation will consider the information and records it holds about an applicant, as previously provided by the applicant or an employer of the applicant. The Corporation may contact employers and other persons named in the application to assist in the verification process, but will not do so if no authority for such contact from the applicant is provided in the application.
11. If the Corporation is unable to contact such employers or other persons named in an application, it may choose to give the relevant information or document less weight in the absence of being able to verify that information or document with that employer or other person.
12. The Corporation expects an applicant to explain the relevance of, and reasons for, the information provided in an application, where this is not obvious.
13. If the Corporation decides that some or all of the information provided to it is not correct, the Corporation will use any correct information it has and its own records to resolve what an applicant's period or periods of service in the black coal mining industry are for the purposes of calculating any long service leave under the new law. The Corporation will then notify the applicant of the records it holds about them.
14. The Corporation may review a decision on whether information provided to it in an application is correct, if **further and additional** information or documents are provided to the Corporation that clearly demonstrate that the applicant's qualifying service and long service leave entitlements (if any) as calculated by the Corporation are incorrect.
15. In considering an application or a request for a review, the Corporation may draw on the advice of the LSL Administrator and a reference panel of industry experts.
16. Although the Corporation intends to apply these policies and procedures in considering applications for the calculation of a current or former eligible employee's prior service, the Corporation may depart from, or amend, its policy or procedures for the purposes of considering a particular application or class of applications in a fair or efficient way.

Issue date: 1 June 2012