



Employer Reimbursement Rules 2017

The Board of the Coal Mining Industry (Long Service Leave Funding) Corporation makes the following Rules under subsection 45(1) of the *Coal Mining Industry (Long Service Leave) Administration Act 1992*.

Dated

28 February 2017

Darlene Perks
Chief Executive Officer

Part 1 Preliminary

1 **Name of Rules**

These Rules are the *Employer Reimbursement Rules 2017*.

2 **Commencement**

These Rules commence on 1 July 2017.

3 **Revocation**

The *Employer Reimbursement Rules 2011* are revoked.

4 **Definitions**

In these Rules:

Act means the *Coal Mining Industry (Long Service Leave) Administration Act 1992*.

post-2012 entitlement, for an eligible employee, means the amount of LSL credit (in hours) accrued by the eligible employee in respect of the period starting on 1 January 2012.

pre-2012 entitlement, for an eligible employee, means the amount of long service leave (in hours) accrued by the eligible employee in respect of the period before 1 January 2012.

Note Several other words and expressions used in these Rules have the meaning given by section 4 of the Act, for example:

- eligible employee
- eligible wages
- employer
- LSL credit
- Payroll Levy Collection Act.

Part 2 Notional accounts

5 Creation of notional accounts

- (1) The Corporation must create a notional account for each person who becomes an eligible employee after the commencement of these Rules.
- (2) Subrule (1) does not require the Corporation to create a notional account for a person unless the Corporation is aware that the person is an eligible employee.
- (3) A notional account established before the commencement of these Rules is to be taken by the Corporation to be a notional account created under subrule (1).

6 Recording of amounts of levy

The Corporation must, for each month, record in the notional account for an eligible employee, the amount paid by an employer in respect of the employee as levy under the Payroll Levy Collection Act, for the month.

7 Correction of notional accounts

- (1) The Corporation may make corrections to a notional account if it determines that the details of that account are incorrect.
- (2) If the Corporation makes a correction under subrule (1) it must record the reasons why the correction was made.

Part 3 Calculation of reimbursable amounts (Part 5A of the Act)

8 How does the Board decide the reimbursable amount for an employer?

- (1) If the Corporation receives a claim from an employer for reimbursement under section 44 of the Act after the commencement of these Rules, the Board must decide the amount the employer is to be reimbursed by calculating that amount in accordance with:
 - (a) if the employer made a payment under Part 5A of the Act to an eligible employee – Rule 9 of these Rules; or
 - (b) if the employer made a payment under Part 5A of the Act to an eligible employee's legal personal representative. – Rule 10 of these Rules.
- (2) The Board is not required to deal separately with any part of a claim that relates to pre-2012 entitlements and any part of a claim relating to post-2012 entitlements.

9 How is the reimbursable amount for a payment to an eligible employee calculated?

- (1) The reimbursable amount for a payment to an eligible employee is the amount worked out in accordance with the formula:

LSL paid x eligible wages amount per hour

where:

LSL paid means the hours (including any part of an hour) of long service leave entitlement paid for by the employer in respect of an eligible employee, not exceeding the hours of long service leave entitlement (including any part of an hour) recorded by the Corporation with respect to that employee, immediately prior to the date of payment by the employer and not including any hours for which a reimbursement has already been made;

eligible wages amount per hour means the amount per hour of the employee's eligible wages:

- (a) if the employee is employed by the employer at the time the payment is made – immediately before he or she was paid for, or commenced to take, the long service leave, or
 - (b) if the employee is not employed by the employer at the time the payment is made – immediately before he or she left their employment with that employer.
- (2) If the amount calculated under subrule (1) is more than the amount actually paid to the eligible employee in respect of the employee's long service leave entitlement, the reimbursable amount is taken to be the amount paid to the eligible employee.

10 How is the reimbursable amount for a payment to a legal personal representative calculated?

The reimbursable amount for an employer in respect of a payment made by the employer to an eligible employee's legal personal representative under either section 39C or 39CC of the Act is the amount that would have been the reimbursable amount for the employer if the payment had been made to the eligible employee under Rule 9.
