



ORDER

Workplace Relations Act 1996

s.576E—Procedure for carrying out award modernisation process

BLACK COAL MINING INDUSTRY AWARD 2010

(AM2008/2)

JUSTICE GIUDICE, PRESIDENT
VICE PRESIDENT LAWLER
VICE PRESIDENT WATSON
SENIOR DEPUTY PRESIDENT WATSON
SENIOR DEPUTY PRESIDENT HARRISON
SENIOR DEPUTY PRESIDENT ACTON
COMMISSIONER SMITH

MELBOURNE, 19 DECEMBER 2008

Award modernisation.

1. Further to the decision [[2008] AIRCFB 1000] issued by the Commission on 19 December 2008, the following modern award is made:

Black Coal Mining Industry Award 2010

2. The award is attached.

BY THE COMMISSION:

PRESIDENT

Black Coal Mining Industry Award 2010

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Part 1—Application and Operation

1. Title

This award is the *Black Coal Mining Industry Award 2010*.

2. Commencement date

This award commences on 1 January 2010.

3. Definitions and interpretation

3.1 In this award, unless the contrary intention appears:

Act means the *Workplace Relations Act 1996* (Cth)

base rate of pay means the rate of pay payable to an employee for their ordinary hours of work, but not including any of the following:

- loadings;
- monetary allowances;
- overtime or penalty rates; and
- any other separately identifiable amounts.

Commission means the Australian Industrial Relations Commission or its successor

day (unless otherwise agreed by the employer and a majority of the employees affected) means a calendar day commencing at midnight on one day and concluding 24 hours later

employee has the meaning in the Act

employer has the meaning in the Act

enterprise award has the meaning in the Act

mine means any open cut or underground coal mine, or any operation or establishment, in the black coal mining industry

NAPSA means notional agreement preserving a State award and has the meaning in the Act

NES means National Employment Standards

non-working day means any day on which an employee by virtue of the employee's roster is never rostered to attend for rostered hours of work

ordinary hours means the hours required to be worked by an employee for the payment of their award classification rate

ordinary week's pay means the amount in the total payment column for the award classification rate in respect of 35 ordinary hours

roster means any arrangement of rostered hours worked by an employee

roster cycle means the period over which a roster repeats and an employee's hours average 35

rostered day off or **RDO** each mean any day on which an employee, by virtue of the employee's roster, is not rostered to attend for rostered hours of work and does not include non working days

rostered hours means ordinary hours of work and rostered overtime

rostered overtime means reasonable additional hours which are required to be worked by an employee as an integral part of the employee's roster

seven day roster employee means an employee, other than a six day roster employee who, over the roster cycle, may be rostered to work shifts on any of the seven days of the week

six day roster employee means an employee who, over a roster cycle, is rostered to work shifts, the hours of which occur during any six consecutive 24 hour periods in a span of seven consecutive 24 hour periods. The roster must include a non working period of at least 24 consecutive hours at the same time each week.

standard rate means the minimum weekly wage for a Mineworker—Induction Level 2 in Schedule A—Production and Engineering Employees.

3.2 Where this award refers to a condition of employment provided for in the NES, the NES definition applies.

4. Coverage

4.1 This award applies to:

- (a) employers of coal mining employees as defined in clause 4.1(b); and
- (b) coal mining employees.

Coal mining employees are:

- (i) employees who are 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 and who are employed in a classification or class of work in Schedule A—Production and Engineering Employees or Schedule B—Staff Employees of this award;
- (ii) employees who are 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 and who are employed in a classification or class of work in Schedule A—Production and Engineering Employees or Schedule B—Staff Employees of this award.

Black Coal Mining Industry Award 2010

4.2 For the purposes of this award, black coal mining industry has the meaning applied by the courts and industrial tribunals, including the Coal Industry Tribunal. Subject to the foregoing, the black coal mining industry includes:

- (a) the extraction or mining of black coal on a coal mining lease by means of underground or surface mining methods;
- (b) the processing of black coal at a coal handling or coal processing plant on or adjacent to a coal mining lease;
- (c) the transportation of black coal on a coal mining lease; and
- (d) other work on a coal mining lease directly connected with the extraction, mining and processing of black coal.

4.3 The black coal mining industry does not include:

- (a) the mining of brown coal in conjunction with the operation of a power station;
- (b) the work of employees employed in head offices or corporate administration offices (but excluding work in town offices associated with the day-to-day operation of a local mine or mines) of employers engaged in the black coal mining industry;
- (c) the operation of a coal export terminal;
- (d) construction work on or adjacent to a coal mine site;
- (e) catering and other domestic services;
- (f) haulage of coal off a coal mining lease (unless such haulage is to a wash plant or char plant in the vicinity of the mine); or
- (g) the supply of shotfiring or other explosive services by an employer not otherwise engaged in the black coal mining industry.

NOTE: See, for example, decision of the Coal Industry Tribunal in *Australian Collieries Staff Association and Queensland Coal Owners Association*—No. 20 of 1980, 22 February 1982 [Print CR2997].

4.4 The award does not cover an employee excluded from award coverage by the Act.

4.5 The award does not cover an employer bound by an enterprise award with respect to any employee who is covered by the enterprise award.

4.6 Subject to clauses 4.1 and 4.2, where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

5. Access to award and the National Employment Standards

The employer must ensure that copies of this award and the NES are available to all employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

6. The National Employment Standards and this award

The [NES](#) and this award contain the minimum conditions of employment for employees covered by this award.

7. Award flexibility

7.1 Notwithstanding any other provision of this award, an employer and an individual employee may agree to vary the application of certain terms of this award to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:

- (a) arrangements for when work is performed;
- (b) overtime rates;
- (c) penalty rates;
- (d) allowances; and
- (e) leave loading.

7.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress.

7.3 The agreement between the employer and the individual employee must:

- (a) be confined to a variation in the application of one or more of the terms listed in clause 7.1; and
- (b) not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment.

7.4 For the purposes of clause 7.3(b) the agreement will be taken not to disadvantage the individual employee in relation to the individual employee's terms and conditions of employment if:

- (a) the agreement does not result, on balance, in a reduction in the overall terms and conditions of employment of the individual employee under this award and any applicable agreement made under the Act, as those instruments applied as at the date the agreement commences to operate; and
- (b) the agreement does not result in a reduction in the terms and conditions of employment of the individual employee under any other relevant laws of the Commonwealth or any relevant laws of a State or Territory.

7.5 The agreement between the employer and the individual employee must also:

- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;
- (b) state each term of this award that the employer and the individual employee have agreed to vary;
- (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
- (d) detail how the agreement does not disadvantage the individual employee in relation to the individual employee's terms and conditions of employment; and
- (e) state the date the agreement commences to operate.

7.6 The employer must give the individual employee a copy of the agreement and keep the agreement as a time and wages record.

7.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure that the employee understands the proposal.

7.8 The agreement may be terminated:

- (a) by the employer or the individual employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (b) at any time, by written agreement between the employer and the individual employee.

7.9 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this award.

Part 2—Consultation and Dispute Resolution

8. Consultation regarding major workplace change

8.1 Employer to notify

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (b) **Significant effects** include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this award makes provision for

alteration of any of these matters an alteration is deemed not to have significant effect.

8.2 Employer to discuss change

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 8.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.
- (b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 8.1.
- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees, provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

9. Dispute resolution

- 9.1** In the event of a dispute about a matter under this award, or a dispute in relation to the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- 9.2** If a dispute about a matter arising under this award, or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 9.1 have been taken, a party to the dispute may refer the dispute to the Commission.
- 9.3** The parties may agree on the process to be utilised by the Commission including mediation, conciliation and consent arbitration.
- 9.4** Where the matter in dispute remains unresolved, the Commission may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 9.5** An employer or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.6** While the dispute resolution procedure is being conducted, work must continue in accordance with this award and the Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

Part 3—Types of Employment and Termination of Employment

10. Types of employment

10.1 An employer may employ an employee in any classification included in this award in either of the following types of employment:

- (a) full-time;
- (b) part-time; or
- (c) in the case of classifications in Schedule B—Staff Employees, casual.

10.2 Full-time employment

A full-time employee is an employee whose average ordinary hours of work will be 35 hours per week.

10.3 Part-time employment

- (a) A part-time employee is an employee who:
 - (i) works less than 35 hours per week;
 - (ii) has reasonably predictable hours of work; and
 - (iii) receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.
- (b) At the time of engagement the employer and the part-time employee will agree in writing on a regular pattern of work, specifying at least the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day.
- (c) Any agreed variation to the regular pattern of work will be recorded in writing.
- (d) All time worked in excess of the hours as mutually arranged will be overtime and paid for at the rates prescribed in clause 17—Overtime.
- (e) A part-time employee will be paid per hour 1/35th of the weekly rate prescribed for the classification, group or level on which the employee is engaged.

10.4 Casual Employment

- (a) A casual employee is one engaged and paid as such.
- (b) A casual employee, for working ordinary hours, will be paid 1/35th of the appropriate weekly rate, plus 25% in lieu of the leave entitlements under this award, with a minimum four hours payment on each engagement.

11. School-based apprentices

11.1 The terms of this award apply pro rata to school-based apprentices, except where otherwise stated. A **school-based apprentice** is a person who is undertaking an

apprenticeship in accordance with this clause while also undertaking a course of secondary education.

- 11.2** The minimum hourly wages for full-time apprentices as set out in this award apply to school-based apprentices for total hours worked including time deemed to be spent in off-the-job training.
- 11.3** For the purposes of clause 11.2, where a school-based apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice is paid is deemed to be 25% of the actual hours each week worked on-the-job. The wages paid for training time may be averaged over the semester or year.
- 11.4** A school-based apprentice is allowed, over the duration of the apprenticeship, the same amount of time to attend off-the-job training as an equivalent full-time apprentice.
- 11.5** For the purposes of clause 11.4, off-the-job training is structured training delivered by a registered training organisation as specified in the training plan associated with the training agreement which is separate from normal work duties or general supervised practice undertaken on-the-job.
- 11.6** The duration of the apprenticeship is as specified in the training agreement. The period so specified to which apprentice wages apply must not exceed six years.
- 11.7** A school-based apprentice progresses through the wage scale at the rate of 12 months' progression for each two years of employment as an apprentice.
- 11.8** The wage scale is based on a standard apprenticeship of four years. The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
- 11.9** Where an apprentice converts from a school-based to a full-time apprenticeship, all time spent as a full-time apprentice counts for the purposes of progression through the wage scale. This progression applies in addition to the progression achieved as a school-based apprentice.

12. Employer and employee duties

- 12.1** An employee:
- (a) must perform work as reasonably required by the employer; and
 - (b) must undertake training that the employer reasonably requires (which may include training to maintain their classification or acquire new competencies).
- 12.2** Where an employee does not perform work or undertake training in accordance with clause 12.1 the employee is not entitled to payment for that period.
- 12.3** An employer may direct an employee to carry out such duties as are within the limits of the employee's skills, competence and training consistent with the respective classification structures of this award provided that such duties are not designed to promote deskilling and provided that the duties are within safe working practices and statutory requirements.

13. Termination of employment

13.1 Notice of termination is provided for in the NES. This clause supplements the entitlement to notice of termination in the NES and provides industry specific detail.

13.2 Termination by employee

An employee must give one week's notice to terminate employment, or forfeit to the employer one week's pay instead of giving notice.

13.3 Termination by employer

This clause does not affect the right of the employer to dismiss an employee without notice for serious misconduct and in such cases the wages will be payable up to the time of dismissal only.

13.4 Notice of termination—redundancy

Where termination occurs due to redundancy as defined in clause 14.2 the employee whose employment is terminated is entitled to a minimum of four weeks' notice of termination.

13.5 Payments on termination

In the case of termination of employment, and in addition to any other amounts payable pursuant to this award to an employee on termination, the employee must be paid in accordance with this clause.

(a) Accrued annual leave

The employee must be paid for all annual leave entitlements, and annual leave accrued in accordance with clause 24.3, at the employee's base rate of pay.

(b) Accrued personal/carer's leave

(i) An employee whose employment is terminated:

- by retrenchment;
- by retirement at or after age 60;
- by the employer because of ill health; or
- by death;

must if the employee has 70 or more hours of untaken personal leave entitlement, be paid for that entitlement at the employee's base rate of pay.

(ii) When an employer terminates the employment of an employee during a period of absence on paid personal leave, the employee must be paid until the employee has no further accumulation of personal leave or until the employee is fit for duty, whichever occurs first.

14. Redundancy

14.1 The redundancy arrangements in this award are an industry-specific redundancy scheme and, as such, Subdivision B of Division 10 the NES does not apply.

14.2 Definition of redundancy

- (a) An employee is made redundant where an employee's employment is terminated at the employer's initiative:
 - (i) because the employer no longer requires the job done by the employee to be done by anyone except where this is due to the ordinary and customary turnover of labour; or
 - (ii) because of insolvency or bankruptcy of the employer.
- (b) This clause does not apply to employees engaged for a fixed term or a specified task.

14.3 Severance payment

Except where clause 14.5 applies, when terminations occur due to redundancy the employees terminated are entitled to severance pay equal to one ordinary week's pay for each completed year of employment.

14.4 Retrenchment payment

- (a) Except where clause 14.5 applies, where redundancies occur due to:
 - (i) technological change;
 - (ii) market forces; or
 - (iii) diminution of reserves,the employees terminated are entitled to retrenchment pay equal to two ordinary weeks' pay for each completed year of employment. This payment is additional to the payment prescribed in clause 14.3. This makes a total of three ordinary weeks' pay for each completed year of employment.
- (b) Regardless of length of employment, the minimum payment due to employees under clause 14.4(a) is two ordinary weeks' pay.
- (c) The amount of payment due under clause 14.4 is not to be more than what an employee would have received had the employee remained in employment with the employer until the age of 60 years.

14.5 Exemption

An employer is not liable for the payment in clauses 14.3 and 14.4 if the employer obtains, or causes to be made available for the employee, work:

- (a) that the employee is competent to perform;
- (b) in a position that carries the same or a higher classification rate of pay than the employee's previous position;
- (c) that can reasonably be regarded as permanent; and

- (d) allows the employee to reside in the same general locality as the employee's previous residence.

14.6 Variation of retrenchment pay

Despite anything in this clause, an employer may make application to the Commission to be granted relief from the obligation to make a payment pursuant to clause 14.4. A dispute over what is just and expedient may be resolved through the dispute resolution procedure.

Part 4—Minimum Wages and Related Matters

15. Classifications

The classifications in which employees may be employed are set out in the following schedules:

- (a) Schedule A—Production and Engineering Employees
- (b) Schedule B—Staff Employees

16. Minimum wages and allowances

16.1 The wages and allowances which an employee is to be paid are specified in the following schedules:

- (a) Schedule A—Production and Engineering Employees
- (b) Schedule B—Staff Employees

16.2 An employee who performs mixed functions on any shift must be paid for the whole shift at the rate prescribed for the highest of such functions.

16.3 An employee absent from work is not entitled to payment for the period of absence unless paid absence is agreed by the employer, or permitted by this award or the law.

16.4 Unless otherwise agreed between the employer and the majority of employees, wages will be paid weekly.

16.5 Wages will be paid by cheque or electronic funds transfer.

16.6 In the absence of agreement to the contrary, not more than one week's pay will be kept in hand by the employer.

16.7 Upon termination of employment, wages due to an employee will be paid on the day of such termination or forwarded by post, within 72 hours, to the last address notified in writing by the employee.

16.8 Subject to all relevant laws, an employer and an individual employee may agree to a salary sacrifice arrangement. The obligations of the employer in respect of payment of remuneration will be satisfied by the employer complying with such an arrangement provided that the salary sacrificed amount and the residual wages combined are not less than the classification rate otherwise payable.

16.9 Supported wage system

See Schedule D

16.10 National training wage

See Schedule E

17. Overtime

17.1 In calculating overtime, except for clause 17.7, each day is to be treated separately.

17.2 Payment for overtime

(a) Subject to the exceptions in clause 17.2(b), all time worked in excess of or outside the ordinary hours of any shift on the following days will be paid for at the following rates:

Day of week	Rate of pay
Monday to Friday	First 3 hours at time and a half After 3 hours at double time
Saturday	First 3 hours at time and a half After 3 hours at double time
Sunday	Double time

(b) All time worked in excess of or outside the ordinary hours of any shift by employees:

- (i) who are six day roster employees or seven day roster employees;
- (ii) who work a roster which requires ordinary shifts on public holidays and not less than 272 ordinary hours per year on Sundays; or
- (iii) who work a roster which requires ordinary shifts on Saturday and Sunday where the majority of the rostered hours on the Saturday or Sunday shifts fall between midnight Friday and midnight Sunday;

will be paid for at the rate of double time.

17.3 Minimum payment for overtime on Saturday and Sunday

An employee called on to work overtime on a Saturday or Sunday (that is not continuous with work started on the previous day) will be paid for at least three hours at the appropriate rate.

17.4 Reasonable additional hours

Subject to the NES, an employer may require an employee to work reasonable additional hours in addition to their rostered hours and be paid the applicable overtime rates.

17.5 Averaging overtime payments

An employer and an employee employed in a classification in Schedule B—Staff Employees may agree to average overtime payments over a length of a defined period.

17.6 Rest period after working overtime

(a) Length of the rest period

When overtime work is necessary it will be arranged where possible for employees to have at least 10 consecutive hours off duty between the work of successive days.

(b) Where the employee does not get a 10 hour rest

(i) The following conditions apply to an employee who works so much overtime that the employee has not had at least 10 consecutive hours off duty between the end of the employee's ordinary hours of work on one day and the start of the employee's ordinary hours of work on the next day:

- the employee will be released from duty after that overtime is finished until the employee has had ten consecutive hours off duty, and
- there will be no loss of pay for ordinary hours of work time which occur during this absence.

(ii) The following conditions apply to an employee who, on the instructions of the employer, resumes or continues work without having had 10 consecutive hours off duty in accordance with clause 17.6(b)(i):

- the employee will be paid at double time during ordinary hours and after that until the employee is released from duty;
- the employee will then be entitled to be absent for 10 consecutive hours; and
- there will be no loss of pay for ordinary hours of work time which occur during this absence.

17.7 Call-back

(a) Payment for call-back

(i) An employee who is recalled to work overtime after leaving the mine (whether the employee was notified before or after leaving the mine) will be paid for at least four hours work at the appropriate rate for each time the employee is recalled.

(ii) Except where unforeseen circumstances arise, the employee will not be required to work the full four hours if the job to be performed is completed within a shorter period.

(iii) The provisions of this clause do not apply in the following cases:

- where it is customary for an employee to return to the mine to perform a specific job outside the employee's ordinary working hours; or
- where the overtime is continuous (subject to a reasonable meal break) with the end or start of ordinary working time.

(b) Call-back less than four hours

Overtime worked in the circumstances specified in clause 17.7 will not be regarded as overtime for the purposes of a rest period as set down in clause 17.6 if the actual time worked is less than four hours on any recall or on each of any recalls.

17.8 Meal breaks during non-rostered overtime

- (a) If an employee is required to work more than one and a half hours past their rostered shift (exclusive of crib time) then the employee will, unless agreed otherwise, before starting this overtime be allowed at least 30 minutes for a meal without deduction of pay.
- (b) The employee will also, unless notified the previous day of the requirement to work overtime, be supplied with a meal or paid a meal allowance.
- (c) After each four hours of overtime worked after a crib break the employee will have a further crib break and either be supplied with a meal or be paid a meal allowance.
- (d) Where the overtime worked is not continuous with an employee's rostered hours, the employee is entitled to a meal break of 30 minutes without deduction from pay after each five hours worked.

18. Accident pay

An employee in receipt of weekly payments under the provisions of applicable workers compensation legislation will be entitled to receive accident pay from the employer subject to the following conditions and limitations:

18.1 Payment to be made during incapacity

An employer must pay, or cause to be paid, accident pay during the incapacity of the employee, within the meaning of the applicable workers compensation legislation:

- (a) until such incapacity ceases; or
- (b) until the expiration of a period of 78 weeks from the date of injury;

whichever event will first occur, even if the employer terminates the employee's employment within the period.

18.2 Meaning of accident pay

For the purposes of this clause **accident pay** means:

- (a) For the initial period of 39 weeks from the date of injury, a weekly payment representing the difference between the weekly amount of compensation paid

to the employee under the applicable workers compensation legislation and the weekly amount that would have been received by virtue of this award had the employee been on paid personal leave at the date of the injury (provided the latter amount is greater than the former amount).

- (b) For a further period of 39 weeks a weekly payment representing the difference between the weekly amount of compensation paid to the employee under the applicable workers compensation legislation and the rate prescribed from time to time for the classification of the incapacitated employee at the date of the injury (provided the latter amount is greater than the former amount).

18.3 Pro rata payments

In respect of incapacity for part of a week the amount payable to the employee as accident pay will be a direct pro rata.

18.4 When not entitled to payment

An employee will not be entitled to any payment under this clause in respect of any period of paid annual leave or long service leave, or for any paid public holiday.

18.5 Redemptions

In the event that an employee receives a lump sum in redemption of weekly payments under the applicable workers compensation legislation, the liability of the employer to pay accident pay as herein provided will cease from the date of such redemption.

18.6 Damages independent of the Acts

Where the employee recovers damages from the employer or from a third party in respect of the said injury independently of the applicable workers compensation legislation, such employee will be liable to repay to the employer the amount of accident pay which the employer has paid under this clause and the employee will not be entitled to any further accident pay thereafter.

18.7 Calculation of period

The 78 week period commences from the first day of incapacity for work, which may be subsequent to the date of injury. Intermittent absences arising from the one injury are to be cumulative in the assessment of the 78 week limitation.

18.8 Clause ceases to operate

This clause ceases to operate on 31 December 2014.

19. Allowances

- 19.1** Allowances are set out in Schedule A—Production and Engineering Employees and Schedule B—Staff Employees.

19.2 Adjustment of expense related allowances

At the time of any adjustment to the standard rate, each expense related allowance will be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most

recently published by the Australian Bureau of Statistics since the allowance was last adjusted.

The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Tool allowance	Tools component of the household appliances, utensils and tools sub-group
Meal allowance	Take away and fast foods sub-group

Part 5—Hours of Work and Related Matters

20. Ordinary hours of work

20.1 The ordinary hours of work will be an average of 35 hours per week. Those hours will be averaged over the roster cycle.

20.2 All ordinary hours worked by an employee on the following days will be paid for at the following rates:

Day of week	Rate of pay
Monday to Friday	Single time
Saturday	First 4 hours at time and a half After 4 hours at double time
Sunday	Double time

21. Shiftwork

21.1 Definitions

- (a) Afternoon shift means any shift, the ordinary hours of which finish after 6.00 pm and at or before midnight.
- (b) Night shift means any shift, the ordinary hours of which finish after midnight and at or before 8.00 am.
- (c) Permanent night shift employee is an employee who:
 - (i) works night shift only; or
 - (ii) stays on night shift for a longer period than four consecutive weeks; or
 - (iii) works on a roster that does not give at least one-third of the employee's working time off night shift in each roster cycle.

21.2 Shiftwork rates

Rates for shiftwork are payable as follows:

Type of shift	Shift rates
Day shift	Ordinary time
Afternoon and rotating night shifts	
(a) Ordinary hours	(a) 115% of the ordinary time rate
(b) Overtime hours 6 or 7 day roster	(b) Overtime penalty rate plus 15% of the ordinary time rate for time worked
(c) All others	(c) Overtime penalty rate
Permanent night shift	
(a) Ordinary hours	(a) 125% of the ordinary time rate
(b) Overtime hours 6 or 7 day roster	(b) Overtime penalty rate plus 25% of the ordinary time rate for time worked
(c) All others	(c) Overtime penalty rate

21.3 Change of shift for permanent day shift employees

(a) For at least three consecutive working days

If an employee who normally works on day shift only is required to work afternoon or night shift on at least three consecutive working days then the employee will be paid at overtime rates for the first afternoon or night shift so worked and after that the employee will be paid in accordance with the provisions of clause 21.2 for any other shifts.

(b) For fewer than three consecutive working days

If the employee is required to work afternoon or night shiftwork for a period fewer than three consecutive working days, overtime rates will be paid for any afternoon or night shiftwork. An exception to this is where the requirement is caused by the failure of any other employee to come on duty at the proper time.

22. Rostering

22.1 Rostering of hours and length of shifts

- (a) The employer can determine the type of rosters to be worked.
- (b) The employer can determine the shift length to be worked as long as the ordinary hours do not exceed 10. Shifts of more than 10 ordinary hours can only be implemented by agreement between the employer and the majority of employees affected or, in the case of a dispute, as resolved in accordance with clause 9—Dispute resolution.

22.2 Shift starting and finishing times

The start and finish times of shifts up to 10 ordinary hours may be determined by the employer. Shifts in excess of 10 ordinary hours will be worked between the starting and finishing times that are agreed between the employer and the majority of employees affected or, in the case of a dispute, as resolved in accordance with the dispute resolution procedure.

22.3 Number and spread of shifts

The number and spread of ordinary shifts may be varied by the employer and, in the case of dispute, the dispute resolution procedure applies.

22.4 Starting and finishing places

- (a) The starting and finishing place of a shift are to be agreed between the employer and the majority of affected employees or, in the absence of agreement, as determined in accordance with the dispute resolution procedure.
- (b) At underground mines, the designated starting and finishing place will be on the surface.

22.5 Roster changes

An employee's place on a roster will not be changed, except where:

- (i) one week's notice of any change is given to the employee; or
- (ii) where less than one week's notice is given, the employee is paid at overtime rates for all work from the time of change of shift until the week's notice would have expired.

22.6 Rostered days off (RDO)

(a) Period of notice to be given

Subject to this clause, if an employee is entitled to a rostered day off (RDO) then the employee must be advised by the employer:

- (i) at least four weeks before the day the employee is to take off; or
- (ii) a lesser period of notice as agreed by the employer and the majority of employees in the mine or sections affected.

(b) An employee required to work on an RDO

An employee will only be required to work on an RDO after attempts by the employer to cover the casual vacancy by other means have failed.

(c) Payment for working on an RDO

An employee will be paid for working ordinary hours on an RDO at either:

- (i) ordinary rates for time worked during ordinary hours on an RDO, and
 - the employee will then take a day off in lieu before the end of the employee's next roster cycle;

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- this day in lieu will be selected by the employee provided that at least one week's notice is given to the employer; and
- the employee will be allowed this day off unless the operations of the mine will be affected by the absence,

OR

- (ii) overtime rates for the time worked during ordinary hours on the RDO, without any day off in lieu.
- (d) An employee will be paid overtime rates for all time worked outside or in excess of the ordinary hours for that day or shift.
- (e) **RDO moved to another day**
- (i) An employer, with the agreement of the majority of employees affected, may move the RDO of these employees to another day:
 - a breakdown of machinery;
 - a failure or shortage of electric power;
 - meeting the requirements of the mine; or
 - an emergency situation.

In the case of another day being substituted for the RDO, the new day becomes the RDO and the original day becomes an ordinary working day.

- (ii) An individual employee, with the agreement of the employer, may substitute the day the employee is to take off for another day.
- (f) **RDOs falling on a recognised public holiday**
- An employee who is entitled to an RDO which falls on a public holiday, is, at the discretion of the employer, to be either:
- (i) paid at the employee's classification rate; or
 - (ii) credited with one day for each such public holiday (payable at ordinary rates).

- (g) **RDOs not to fall on a recognised Public Holiday for Employees working Monday to Friday shifts of up to 8.5 ordinary hours**
- (i) Subject to clause 24.3(g)(ii), where an employee is working Monday to Friday shifts of up to 8.5 hours and the employee's roster does not include work on a holiday, the RDO is not to fall on a holiday.
 - (ii) Where a holiday is prescribed after the employee has been notified of the RDO, and that holiday falls on the employee's RDO, the employer must allow the employee to take the RDO on an alternative weekday.

23. Meal breaks—rostered hours

- 23.1** An employee is entitled to a meal break of 30 minutes without deduction from pay for each five hours worked during rostered hours.
- 23.2** Subject to clause 23.3, an employee will not be required to work for more than five hours without a break for crib.
- 23.3** Where the employer and employee agree that the employee will work for more than five hours without a break, then the employee will, unless otherwise agreed, be paid for any work beyond five hours at the applicable overtime rates until a meal break is taken.

Part 6—Leave and Public Holidays

24. Annual leave

- 24.1** Annual leave entitlements are provided for in the NES. This clause supplements those entitlements and provides industry specific detail.

24.2 Entitlement to annual leave

- (a) An employee is entitled to annual leave, in addition to the amount provided for in the NES, such that the employee's total entitlement to annual leave pursuant to the NES and this award for each year of employment is a cumulative total of 175 ordinary hours (five weeks).
- (b) An employee who:
- (i) is a seven day roster employee; or
 - (ii) works a roster which requires ordinary shifts on public holidays and not less than 272 ordinary hours per year on Sundays,

is entitled annually to an additional 35 ordinary hours (one week) of annual leave.

24.3 Accrual of annual leave

Employees, other than casual employees, accrue annual leave at the following rate:

For employees who would be entitled to annual leave of:	Hours of annual leave for each completed week of employment:
175 hours (5 weeks)	3.3654
210 hours (6 weeks)	4.0385

24.4 When annual leave can be taken

- (a) An employee with an annual leave entitlement, who wishes to take all or part of that entitlement will, unless otherwise agreed between the employee and the employer, give the employer at least 28 days' notice in writing of the amount of leave to be taken. The employer will grant that leave unless, in the employer's opinion, the operations of the mine will be affected.

- (b) Unless otherwise agreed, annual leave will be taken within 12 months of the date the employee received the annual leave entitlement.
- (c) The employer may direct an employee to take all or part of an annual leave entitlement provided at least 28 days' notice in writing is given to the employee.

24.5 Deduction of annual leave

For each period of annual leave taken the ordinary hours of rostered shifts that would have been worked by an employee will be deducted from the employee's accrued annual leave entitlement.

24.6 Amount of annual leave to be taken

Unless otherwise agreed between the employer and employee, annual leave will be given and taken in not more than three periods, one of which will be of at least three weeks' duration.

24.7 Payment for annual leave

An employee taking annual leave must be paid either:

- (a) the employee's ordinary rate of pay plus a loading of 20% of that rate; or
- (b) the employee's rostered earnings for the period of annual leave, which includes all rostered overtime and rostered public holidays (paid at double time), but does not include shift allowances, other than for seven day roster employees;

whichever is the greater.

24.8 When payment will be made for annual leave

An employee will be paid for a period of annual leave in accordance with the employee's normal pay period(s), unless an employee requests that payment of the entire period of annual leave be made prior to the employee commencing leave.

24.9 Taking annual leave in advance

- (a) An employer may allow an employee to take annual leave in advance.
- (b) Any annual leave which has been taken in accordance with clause 24.9(a) will be deducted from the employee's entitlement as it accrues.
- (c) The employer may deduct from the employee's termination pay the payment for any annual leave taken in advance which the employee has not yet accrued in accordance with clause 24.3.

24.10 Shutdown

- (a) An employer that shuts down all or any part of its operation must give employees at least 28 days' notice of the shutdown or such shorter period as agreed between the employer and the employees affected.
- (b) Employees directly affected by the shutdown who have an entitlement to annual leave may take all or part of that entitlement during the shutdown period.

- (c) Employees who are directly affected by the shutdown and who are not yet entitled to sufficient annual leave, may, during the shutdown period, take any annual leave accrued in accordance with clause 24.9.

25. Personal/carer's leave

25.1 Personal/carer's leave entitlements are provided for in the NES. This clause supplements those entitlements and deals with evidence required to be provided by an employee when taking paid personal/carer's leave.

25.2 Entitlement

A full-time employee is entitled to 105 ordinary hours of personal/carer's leave (inclusive of the employee's NES entitlement) on commencing employment and on each anniversary of commencement. Any personal leave which is not taken by an employee must accumulate without limitation.

25.3 Evidence required

- (a) If requested by the employer, the employee must provide a medical certificate or such other evidence as will prove to the employer's reasonable satisfaction that the absence from work was for the reasons set out in the NES.
- (b) If the proof is disputed, such a dispute may be dealt with in accordance with the dispute resolution procedure.

25.4 Deduction of personal leave

Any personal leave taken must be deducted from the employee's personal leave entitlement as follows:

- (a) where the absence is for fewer than half the ordinary hours component of the shift, no deduction; or
- (b) in all other cases, the full ordinary hour's component of the shift will be deducted for each absence.

26. Public holidays

26.1 Public holiday entitlements are provided for in Division 9 of the NES.

26.2 Transfer of recognised public holidays

The employer and the majority of employees affected may agree to observe a holiday on a day other than the day prescribed. If this occurs, the day agreed upon is the award holiday and the actual holiday becomes an ordinary working day.

26.3 Employee not required to work on a public holiday

An employee who is not required to work on a holiday which would otherwise have been a working day for that employee will be paid for that day at the employee's classification rate unless the employee, without good and sufficient reason, fails to work on the employee's:

- (a) last working day immediately before the holiday; or

- (b) first working day after the holiday;

in which case the employee is not entitled to payment for such holiday.

26.4 Employee required to work on a recognised public holiday

- (a) An employee who is required to work on a holiday is to be paid at the rate of double time for work performed during ordinary hours, in addition to the payment prescribed.
- (b) Work performed in excess of ordinary hours on a holiday is to be paid at the rate of treble time.

26.5 Notice of public holidays to be worked (other than employees working shifts of up to 8.5 ordinary hours)

- (a) On a date agreed, the employer will nominate which public holidays will be worked in the following 12 months by employees (other than employees working shifts of up to 8.5 ordinary hours on weekdays), provided that work will not to be carried out on two of such holidays.
- (b) If the employer does not require employees to work on a public holiday (as nominated in clause 26.1) the employer must give the employees as much notice as possible of this decision.
- (c) If the notice required by clause 26.5(b) is less than four weeks inclusive of the holiday, an employee who was rostered to work on the holiday is to be paid for ordinary hours as if the holiday had been worked.
- (d) If the employer decides not to require work to be performed on a public holiday because of a strike or ban, employees, other than those involved in the strike or ban, are to be paid at their classification rate for ordinary hours.

26.6 Employees working Monday to Friday shifts of up to 8.5 ordinary hours

- (a) An employee who only works shifts of up to 8.5 ordinary hours on weekdays cannot, as an integral part of their roster cycle, be rostered for ordinary hours on public holidays. Such employees may, however, in exceptional circumstances, be required to work on public holidays to meet operational needs.

Schedule A—Production and Engineering Employees

A.1 Preamble and principles

- A.1.1** The classification structure in this award determines the minimum weekly wages payable to employees whose employment is subject to this award.
- A.1.2** The structure is a single stream structure, which does not contain any demarcations relating to the performance of work. It allows for a list of minesite competencies to be developed. Each mine's indicative competencies will use as a guide the competency standards contained in the Coal Industry Training Package.
- A.1.3** The definitions for each of the classification levels are necessarily general and intended to cover the types of work actually performed under this award. To eliminate doubt, the work performed by the employee, the assessment of the employee against minesite standards and, in relevant cases, the appointment of an employee to a particular classification by the employer, are the only relevant matters that determine an employee's entitlement to wages pursuant to this clause.
- A.1.4** The employer will make available to employees at a minesite the following:
- (a) the classification that will be occupied by employees whose employment is subject to this award; and
 - (b) the requirements each employee must meet to occupy those classifications.
- A.1.5** Whenever an employer alters the requirements that an employee must hold to occupy a classification, the altered requirements will be published at the minesite.

Note: A proposal to alter such requirements will typically be subject to the consultation obligations in clause 8—Consultation regarding major workplace change of this award.

A.2 Definitions

A.2.1 Mineworker - Induction Level I

Mineworker - Induction Level 1 is the entry level for a non-trade person who is undertaking the statutory/generic and/or minesite induction and who remains at this level until assessed by the employer to have successfully completed the induction requirements when they then advance to a Mineworker - Training.

A.2.2 Mineworker - Induction Level 2 / Mineworker - Training

Mineworker - Induction Level 2 is the entry level for a certificated tradesperson who is undertaking the statutory/generic and/or minesite induction. The tradesperson after successful completion of the induction phase then becomes a Mineworker - Training at this level.

A Mineworker - Training is an employee who trains in and performs the required tasks under direct supervision. This classification applies to employees until assessed by the employer as meeting the requirements to be classified as a mineworker.

A.2.3 Mineworker

A Mineworker is an employee who is assessed by the employer as competent to perform the required tasks in a variety of operating circumstances and under limited supervision. An employee continues in this classification until assessed for advancement to Mineworker - Advanced.

A.2.4 Mineworker - Advanced

A Mineworker - Advanced is an employee who is assessed by the employer against the employer's available criteria as competent to perform the required tasks in all relevant operating circumstances at a level above that of a Mineworker.

A Mineworker - Advanced may be required to supervise the work of other employees.

A.2.5 Mineworker - Specialised

A Mineworker - Specialised is an employee assessed by the employer as competent to perform specialised functions beyond the level of a Mineworker - Advanced. An employee appointed to this classification will undertake a specialised role, which requires them to exercise independent discretion in undertaking functions within the bounds set by the employer.

The performance of this role may require the employee to supervise the work of other employees.

A.3 Advancement

A.3.1 An employee's advancement through the classification structure will be determined in accordance with the definitions above and as outlined in the following table:

Mineworker - Induction Level 1	Non-trades undertaking generic/minesite induction
Mineworker - Induction Level 2	Trades Certificate and undertaking generic/minesite induction
Mineworker - Training	Non-trade - Training in 4 Advancement Competencies; Trade - Training in 2 Advancement Competencies
Mineworker	Non-trade - Competent in 4 Advancement Competencies; Trade - Certificate plus 2 Advancement Competencies

- A.3.2** Progression to the classification of Mineworker - Advanced may occur where an employee is assessed as competent against the available criteria or is appointed to a statutory position. Although advancement to this classification is not governed by the acquisition of skills alone, for a trade certificated employee this may be achieved by exercising skills which require six post-trade modules of training or an equivalent level of skills in non-trade or cross-trade work.
- A.3.3** Progression to the classification of Mineworker - Specialised is by appointment of the employer where an employee is assessed as a specialist against the available criteria or is appointed to a statutory position. Although advancement to this classification is not governed by the acquisition of skills alone, for a trade certificated employee this may be achieved by exercising skills which require 12 post-trade modules of training or an equivalent level of skills in non-trade or cross-trade work.
- A.3.4** Non-trade work referred to in clauses 2.2 and 2.3 above, is work by certificated tradespersons, which is not part of their trade and is of a production or operations nature.
- A.3.5** Cross-trade work referred to in clauses 2.2 and 2.3 above, is work by certificated tradespersons, which is not part of their trade but is part of another certified trade in which they are competent.

A.4 Minimum Rates

Classification	Basic weekly 35 hour rate
	\$
Mineworker - Induction Level 1	620.20
Mineworker - Induction Level 2	632.80
Mineworker - Training	632.80
Mineworker	678.30
Mineworker - Advanced	712.25
Mineworker - Specialised	788.20

A.5 Indicative Competencies

A.5.1 Open cut mines

The following lists are not exhaustive, but rather are indicative of the types of competencies utilised in open cut mines.

INDUCTION

Induction (Generic, Minesite); Interpersonal; First Aid; Fire Fighting; Occupational Health and Safety:

ADVANCEMENT COMPETENCIES

Dragline operation; Auger operation; Truck operation; Shovel operation; Cable handling; Drilling; Blasting; Shotfiring; Scraper operation; Excavator operation; Loader operation; Grader operation; Dozer operation; Pit Dewatering; Equipment servicing and maintenance; Washplant operation; Coal handling; Reclaim operation; Loader operation; Grader operation; Load out operation; Crusher/conveyor operation; Washplant servicing and maintenance; Tyre fitting; Crane operation; Rigging and dogging; Cross-trade skilling.

While an employer may require an employee to become competent in one or more of the following, these competencies will not be required for advancement through the classification structure:

Equipment servicing; Medium vehicles operation; Low loaders operation; Scaffolding; Minor maintenance; Conveyors; Bobcat; etc.

A.5.2 Underground mines

The following lists are not exhaustive, but rather are indicative of the types of competencies utilised in underground mines.

INDUCTION

Induction (Generic, Minesite); Interpersonal; First Aid; Fire Fighting; Occupational Health and Safety.

ADVANCEMENT COMPETENCIES

Face operations, Continuous Miner; Shuttle car operation; FCT operation; Strata control; Bord and pillar mining; Face operations, Longwall; Supports installation; Shearer operation; AFC operation; Stage loader operation; Ancillary equipment; Face operations, Shortwall; Recovery and installation of major equipment; Drift and shaft operations; Environmental monitoring; Ventilation control; Fire control and emergency procedures; Geomechanics; Exploration techniques; Training/Safety co-ordination; Systematic Safety Assessment technique; Reviewing complex tasks and resources; Environmental management; Undermanager functions; Deputy functions; Shotfirer; Process Monitoring Control; Washery operations; Train loading operations; Railway maintenance; Haulage winder operation; Cross-trade skilling.

OTHER COMPETENCIES

While an employer may require an employee to become competent in one or more of the following, these competencies will not be required for advancement through the classification structure:

Coal haulage; Mine services; TQC principles; Roadways; Roof and rib support; Gas drainage; Riggers certificate; Surface operations; Coal stockpile and reclaim; Washery services.

NOTE: The Mineworker – Induction Level 2/Mineworker – Training classification includes the classifications formerly listed in Group B in the Coal Mining Industry (Production and Engineering) Interim Consent Award, September 1990, including the classification of coalcutting machineman. This note is inserted in light of the decision of a Full Bench of the Australian Industrial Relations Commission dated 5 December 2002 [PR925329].

A.6 Apprentices

- A.6.1** The terms of this award apply to the employment of apprentices.
- A.6.2** The off-the-job training of an apprentice may be undertaken on day release or block release basis.
- A.6.3** In order to ensure sufficient training, an apprentice may be engaged by more than one employer in the coal mining industry. Where this occurs, an agreement must be reached between the employers involved on their responsibilities arising under the apprenticeship. A copy of the agreement must be given to the apprentice.
- A.6.4** An adult apprentice is a person who is 21 years of age or over when they commence a three year apprenticeship.
- A.6.5** An employer may provide an apprentice with a tool kit if they agree on the terms for the payment of the cost of the tool kit.
- A.6.6** Except where inconsistent with this award, the State legislation regulating apprenticeships applies.
- A.6.7** The weekly minimum wage rates for apprentices are as follows:

Apprentices other than adult apprentices	Percentage of the Mineworker - Induction Level 2 weekly rate
First year of experience	45
Second year of experience	60
Third year of experience	75
Fourth year of experience	90

Adult apprentices	Percentage of the Mineworker - Induction Level 2 weekly rate
First year of apprenticeship	80
Second year of apprenticeship	90
Third year of apprenticeship	95

A.7 Juniors

Where the law permits junior employees to perform work in the coal mining industry, the weekly minimum wages rates for juniors are as follows:

Age	Percentage of the Mineworker - Induction Level 2 weekly rate
15-16 years	40
16-17 years	55
17-18 years	75

A.8 Allowances

A.8.1 Except where specifically indicated, the following allowances will apply to all employees covered by this schedule and are payable in addition to the employee's classification rate, but are not taken into account in the calculation of any other penalty rate prescribed by the award, except where specifically indicated.

A.8.2 Wage related allowances and reimbursements

Allowance	Percentage of standard rate/reimbursement	Application
Washery allowance	0.63% per day or per shift; minimum payment of 0.32%	Where an employee is employed in or about a washery This allowance is in substitution of all other disability allowances except water money
Water money	0.49% per shift	Where, through no fault of the employee, and in the course of duties, an employee's clothing becomes wet The employee is to notify the supervisor of the intention to claim water money and the reasons for making it as soon as is possible An employee regularly receiving water money must not have the payment discontinued without notice

Allowance	Percentage of standard rate/reimbursement	Application
Shaft work (Electrical/ Mechanical)	0.59% per shift. Minimum payment of 0.3% Minimum payment of 4 hours at the above rate for employees required to carry out work in connection with the release of blockages in sewerage lines and connections thereto (including pumps) A minimum payment of one hour for work on pumps after removal from a pumping station or treatment works for cleaning or stripping	An employee is engaged on shaft work
Dirty work	0.23% per shift	Where an employee has to handle machinery, equipment, appliances or gear of any description which is covered with oil or grease
Confined spaces allowance (Electrical/ Mechanical)	0.08% per hour	Employees working in a space, the dimensions of which necessitate working in a stooped or otherwise cramped position or without proper ventilation, or where confinement within a limited space is unusually discomfoting
Height money (Electrical/ Mechanical)	0.23% per shift	Where an employee is engaged on work at a height of 7.5 metres or more above the nearest horizontal plane
First Aid Officer allowance (does not apply to employees employed under the open cut or underground work models)	0.76% per day or shift or attendance at or paid absence from work	Where an employee is appointed as a first aid officer

Allowance	Percentage of standard rate/reimbursement	Application
First Aid Attendant allowance (does not apply to employees employed under the open cut or underground work models).	0.45% per day or shift	Where an employee is appointed as a first aid attendant
Boom Welding allowance (does not apply to employees employed under the open cut work model)	0.095% per hour	Where an employee carries out pressure or x-ray standard welding on booms
Underground allowance (Electrical/Mechanical)	0.23% per day or shift	An adult employee who works underground on any shift
Additional shift allowance— Open cut employees	0.43% per afternoon shift and 0.85% per night shift (additional to the shiftwork rates)	Where an employee is engaged on afternoon shift and/ or night shift at open cut workings and who is in receipt of the 15% shift allowance
Working clothes and safety boots	Reimbursement by the employer each year for one pair of safety boots and two sets of industrial outer clothing; the articles are to be at a standard normally issued by the Company	Employees required to provide and wear industrial outer clothing and safety boots This provision does not apply where such footwear and clothing are supplied to the employee at the employer's expense
Damage to clothing and tools (Electrical/Mechanical)	Compensation to the extent of damage sustained will be made Provided that the employer's liability for such tools will be limited to such tools of trade as are ordinarily required for the performance of the employees' duties	Where in the course of the work clothing or tools are damaged or destroyed by fire or molten metal or through the use of corrosive substances

Allowance	Percentage of standard rate/reimbursement	Application
Transport	1. Reimbursement of any expense reasonably incurred in excess of expenses usually incurred travelling between home and normal place of work	When employee is required to work during annual leave shutdown and the normal means of transport is unavailable and provided the employee attends for work and performs such work as the employer reasonably requires
	2. Payment at ordinary rates for all time reasonably spent outside ordinary hours of work travelling between home and the temporary location beyond the time usually spent in travelling between home and the ordinary location and/or reimbursement of any expense reasonably incurred in such travelling in excess of the expense usually incurred travelling between home and the employee's ordinary location	When an employee is required to temporarily work away from their ordinary location
	3. Payment for one hour at ordinary rates or the provision of transport at the employer's cost	When an employee works shiftwork, overtime or pre-shift overtime and the employee's normal means of transport is unavailable

A.8.3 Expense related allowances

Allowance	Rate	Application
Tool allowance	Employees required to provide necessary tools must be paid an additional \$10.34 per week	Employers will continue to supply tools customarily supplied by them
Meal allowance	\$11.90 for each meal	When an employee is entitled to a meal allowance in accordance with the provisions of this award

A.8.4 Facilitative provision

Notwithstanding the other provisions of this Schedule, the method of payment of any or all allowances contained in this schedule may be varied by agreement between an employer and the majority of affected employees.

Schedule B—Staff Employees

B.1 Employment functions

Assistant undermanager means an employee, the holder of at least a second class mine manager's certificate of competency under the *Coal Mining Safety and Health Act 1999* (Qld), who is appointed to such position. Provided that an assistant undermanager will not be appointed to any shift unless at least one undermanager has been appointed thereto and the assistant undermanager is subject to the direction and control of that undermanager as appropriate, or the shift is of a size which the *Coal Mining Safety and Health Act 1999* (Qld) does not require the appointment of a second class mine manager's certificate of competency.

Production supervisor means an employee at an open-cut mine whose duties include operational planning, co-ordination, supervision and control of mining and overburden operations and personnel on all shifts worked at the mine.

Open-cut overseer means an employee appropriately qualified and certified performing general supervisory duties which may include the duties of an open-cut examiner under the *Coal Mine Health and Safety Act 2002* (NSW).

Senior chemist means an employee, the holder of an appropriate qualification who is responsible for the co-ordination and control of the work on all shifts at a laboratory where at least one other chemist is employed.

Chemist means an employee who is the holder of an appropriate qualification and is required to carry out testing, analysis and verification of results and may be responsible for the supervision and work of laboratory technicians, laboratory assistants and/or samplers on shift.

Laboratory technician means an employee who has experience in laboratory techniques and who is required to carry out independent testing and analysis of coal samples according to company standards and who reports the results and may be responsible for the supervision and work for one or more Laboratory assistants and/or samplers on shift.

Paymaster means an employee responsible at a mine or group of mines for the full payroll function for at least 300 employees.

Chief surveyor means an employee in charge of a group of mines where a mine surveyor is also employed.

Mine surveyor means an employee who is required by the management to certify the accuracy of mine plans, sections and tracings pursuant in New South Wales to the *Coal Mine Health and Safety Act 2002* (NSW), and in Queensland to the *Coal Mining Safety and Health Act 1999* (Qld).

Surveyor means an employee holding a surveyor's certificate of competency in accordance with the *Coal Mining Safety and Health Act 1999* (Qld) appointed by management to use surveying instruments.

Assistant surveyor means an employee holding a surveyor's certificate of competency appointed by the management to use surveying instruments.

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Trainee means an employee being trained and educated technically to take a managerial position or a position as a surveyor, metallurgist, chemist, geologist, draftsman or a mining, mechanical or electrical engineer.

Deputy means a person whose duties are prescribed by the *Coal Mine Health and Safety Act 2002* (NSW).

B.2 Minimum rates

The minimum rates of pay to be paid to employees will be as follows:

B.2.1 Adults

	Minimum rate of pay \$
GROUP A	666.75
(Applies to adult coal mining industry employees, without prior experience in the coal mining industry, engaged in one of the following classifications)	
Tracer	
Surveyor's Assistant	
Clerk	
Laboratory Assistant	
Technical Assistant	
Stores Clerk	
Trainee	
Coal and/or Dust Sampler	
GROUP B	686.70
(Adult coal mining industry employee engaged in one of the following classifications)	
Tracer	
Surveyor's Assistant	
Clerk	
Laboratory Assistant	
Technical Assistant	
Stores Clerk	
Trainee	
Coal and/or Dust Sampler	
Screen and Surface Overseer	
Traffic Controller	

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	Minimum rate of pay \$
GROUP C	704.90
Computer Operator	
Senior Clerk	
Senior Stores Clerk	
Laboratory Technician	
Assistant Surveyor	
Assistant Safety Officer	
GROUP D	716.10
Surveyor	
Draftsperson	
Shotfirer	
GROUP E	731.15
Leading Draftsperson	
Assistant Training Officer	
Assistant Electrical and/or Mechanical Engineer	
GROUP F	738.50
Senior Computer Operator	
Assistant Purchasing and Stores Control Officer	
Administrative Officer	
GROUP G	778.75
Chemist	
Analyst and/or Programmer	
Environmental Scientist	
Paymaster	
Purchasing Officer	
Stores Control Officer	
Personnel Officer	
Safety Officer	
Assistant to the Chief Clerk	

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	Minimum rate of pay \$
GROUP H	788.20
Deputy Training Officer	
GROUP I	800.80
Foreperson Senior Analyst and/or Programmer Coal Preparation Plant Foreperson (Tasmania) Commercial Officer Assistant Accountant Chief Clerk Purchasing & Store Control Officer Mine Surveyor Planning Officer Occupational Health Nurse	
GROUP J	812.00
Engineer Assistant to the Chief Electrical and/or Mechanical Engineer Open Cut Overseer Chief Surveyor Metallurgist Senior Chemist Geologist Assistant Undermanager Senior Foreperson Accountant Washing Plant Superintendent and/or Supervisor EDP Supervisor	

	Minimum rate of pay \$
GROUP K	830.90
Senior Geologist	
Chief Geologist	
Chief Chemist	
Senior Metallurgist	
Senior Engineer	
Senior Open Cut Overseer	
Coal Preparation Plant Supervisor	
GROUP L	851.90
Production Supervisor	
Chief Electrical and/or Mechanical Engineer	
GROUP M	886.55
Electrical and/or Mechanical Engineer (in-charge)	
Undermanager (in-charge)	

B.2.2 Juniors

The minimum rates of pay to be paid to juniors are the following percentages of the Group A weekly rate in each state:

Age	Percentage of the Group A weekly rate
Up to 17 years	65
17 to 18 years	70
18 to 19 years	80
19 to 20 years	90
20 to 21 years	95

Provided that no existing employee will have their current percentage rate increased or decreased as a result of making this award.

B.2.3 Graduates

(a) Graduate Engineers

A degree qualified Engineer entering the workforce without experience will start at the Graduate Engineer – Level 1 rate. At the completion of 12 months' service that engineer will be assessed by the employer and, having regard to the acquisition and

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utilisation of skills and knowledge through experience over such period, may advance one increment to the Graduate Engineer – Level 2 rate.

Advancement to the Graduate Engineer – Level 3 and the Engineer rate may occur by annual increments, following assessment of the employee by the employer, having regard to the acquisition of skills and knowledge through experience over such period.

The minimum rates of pay to be paid to Graduate Engineers will be the following percentages of the Group J – Engineer’s weekly rate:

Classification	Percentage of the Group J – Engineer’s weekly rate
Graduate Engineer – Level 1	80
Graduate Engineer – Level 2	86
Graduate Engineer – Level 3	94

Provided that no existing employee will have their current percentage rate increased or decreased as a result of making this award.

(b) Commercial Graduates

An employee with a tertiary qualification in a commercial discipline entering the workforce without experience will start at the Commercial Graduate – Level 1 rate. At the completion of 12 months’ service that employee will be assessed by the employer and, having regard to the acquisition and utilisation of skills and knowledge through experience over such period, may advance one increment to the Commercial Graduate – Level 2 rate.

Advancement to the Commercial Graduate – Level 3 and the Commercial Officer rate may occur by annual increments, following assessment of the employee by the employer, having regard to the acquisition of skills and knowledge through experience over such period.

The minimum rates of pay to be paid to Commercial Graduates will be the following percentages of the Group I – Commercial Officer’s weekly rate:

Classification	Percentage of the Group I – Commercial Officer’s weekly rate
Commercial Graduate – Level 1	80
Commercial Graduate – Level 2	86
Commercial Graduate – Level 3	94

B.3 Allowances

Except where specified the following allowances and reimbursements are payable in addition to the employee's classification rate but are not taken into account in the calculation of any other penalty rate prescribed by this award except where specifically indicated.

B.3.1 Wage Related Allowances and Reimbursements

Allowance	Percentage of standard rate/reimbursement	Application
First Aid Officer allowance	0.76% per day or shift or attendance at, or paid absence from, work	Where an employee is appointed as the first aid officer
First Aid Attendant allowance	0.45% per day or shift	Where an employee is appointed as a first aid attendant
Working clothes and safety boots	Reimbursement by their employer each year for one pair of safety boots and two sets of industrial outer clothing	Employees required to provide and wear industrial outer clothing and safety boots. This provision does not apply where such footwear and clothing are supplied to the employee at the employer's expense
Transport	1. Reimbursement of any expense reasonably incurred in excess of expenses usually incurred travelling between home and normal place of work	When an employee is required to work during annual leave shutdown and the normal means of transport is unavailable
	2. Payment at ordinary rates for all time reasonably spent outside ordinary hours of work travelling between home and the temporary location beyond the time usually spent in travelling between home and the ordinary location and/or reimbursement of any expense reasonably incurred in such travelling in excess of the expense usually incurred travelling between home and the employee's ordinary location	When an employee is required to temporarily work away from the ordinary location
	3. Payment for one hour at ordinary rates or the provision of transport at the employer's cost	When an employee works shiftwork or overtime and the employee's normal means of transport is unavailable

B.3.2 Expense related allowances

Meal	\$11.90 for each meal	When an employee is entitled to a meal allowance in accordance with the provisions of this award
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B.3.3 Facilitative provision

Notwithstanding the other provisions of this clause, the method of payment of any or all allowances contained in this schedule may be varied by agreement between an employer and an employee.

Schedule C—Transitional Provisions

C.1 Preserved Allowance—Queensland

An employer bound by this award must pay the following allowance to employees employed in a classification in Schedule A—Production and Engineering Employees in Queensland until 31 December 2014:

Allowance	Rate	Application
Live sewer work	An allowance calculated at the rate of 50% of the ordinary time hourly rate for such work	When an employee is engaged in live sewer work

For the purposes of this clause, **live sewer work** means:

- (a) work carried out in Queensland in situations where there is direct aerial connection with a sewer through which sewage is flowing;
- (b) where mechanical and electrical equipment is installed in association with any such sewer or sewerage pumping station or treatment or treatment works, but does not apply to routine maintenance which does not require the dismantling of pumps etc

but does not include where aerial connection with a sewer is blocked by a disk, plug, valve, water seal or other means.

C.2 Preserved Allowances—New South Wales

An employer bound by this award must pay the following allowances to employees in New South Wales until 31 December 2014:

Allowance	Rate	Application
Shaft sinking or drift driving	\$10.81 per shift	When an employee is a member of a crew engaged in the sinking of a shaft or the driving of a drift In substitution for all disability allowances, except water money
Longwall Allowance	\$34.50 per week i.e. \$6.90 per day. Minimum payment of	When employed in or about longwall operations

\$3.45

C.3 District allowances—Northern Territory

An employee in the Northern Territory is entitled to payment of a district allowance in accordance with the terms of an award made under the *Workplace Relations Act 1996* (Cth):

- (a) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (b) that would have entitled the employee to payment of a district allowance.

This Schedule ceases to operate on 31 December 2014.

C.4 District allowances—Western Australia

An employee in Western Australia is entitled to payment of a district allowance in accordance with the terms of a NAPSA or an award made under the *Workplace Relations Act 1996* (Cth):

- (a) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; and
- (b) that would have entitled the employee to payment of a district allowance.

This Schedule ceases to operate on 31 December 2014.

C.5 Redundancy

- (a) Subject to clause C.5(b), an employee whose employment is terminated by an employer is entitled to redundancy pay in accordance with the terms of a NAPSA:
 - (i) that would have applied to the employee immediately prior to 1 January 2010, if the employee had at that time been in their current circumstances of employment and no agreement made under that Act had applied to the employee; an
 - (ii) that would have entitled the employee to redundancy pay in excess of the employee's entitlement to redundancy pay, if any, under the NES.
- (b) The employee's entitlement to redundancy pay under the NAPSA is limited to the amount of redundancy which exceeds the employee's entitlement to redundancy pay, if any, under the NES.
- (c) This clause does not operate to diminish an employee's entitlement to redundancy pay under any other instrument.
- (d) This Schedule ceases to operate on 31 December 2014.

NOTE: Other transitional provisions will be included before this award commences.