

FAIR WORK COMMISSION

Four yearly review of modern awards – Annual leave

AM2014/47

Outline of submissions - Coal Mining Industry Employer Group in relation to the Black Coal Mining Industry Award 2010

1. This outline of submissions is made for the Coal Mining Industry Employer Group (**CMIEG**) in accordance with the Statement and Directions of the Full Bench issued on 8 July 2016 ([\[2016\] FWCFB 4525](#)).
2. The CMIEG reserves the right to make any further submissions orally at the hearing listed for 13 September 2016, including in response to any submissions filed by other interested parties in respect of the Black Coal Mining Industry Award 2010 (**BCMI Award**).
3. On [29 July 2016](#) the CMIEG filed an "outline of position" confirming its intention to oppose the adoption of the excessive annual leave model term into the BCMI Award.
4. The CMIEG has previously filed submissions and materials on [26 October 2015](#), [21 December 2015](#) and [8 February 2016](#) concerning the model term on excessive annual leave. The CMIEG refers to and relies upon those submissions and materials.
5. The CMIEG confirms its submission that, for the reasons set out in the submissions, and on the basis of the materials, previously filed by the CMIEG:
 - (a) the model term on excessive annual leave should not be inserted into the BCMI Award; and
 - (b) the current clauses 25.4 and 25.10 of the BCMI Award adequately deal with the matter of excessive annual leave and should be retained.
6. It is noted that the Commission has issued a [Background Paper](#) on 8 July 2016 setting out information on the amount of annual leave taken by employees in various industries, including "mining" (Table 9). In respect of the information in the Background Paper, the CMIEG submits that:

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- (a) The information in the Background Paper provides data concerning the "mining industry" and is not limited to the "black coal mining industry". It is apparent that the ANZIC¹ mining division encompasses coal mining (including brown coal mining), oil and gas extraction, metal ore mining and services to mining. The information in the Background Paper concerns the proportion of employees taking annual leave in the mining industry in particular years, rather than the accrued but untaken annual leave of those employees which is the relevant issue. In any event, the information demonstrates that the proportion of employees who took annual leave in the mining industry in each year was relatively similar across each year from 2010 to 2012, and was close to the "all industries" figure in each of those years.
- (b) The data which has been provided by the CMIEG on 21 December 2015 (Annexure 1 of its submissions) is particular to the black coal mining industry, deals with accrued but untaken annual leave (rather than leave taken) which is the relevant issue, and is recent in time (being from 2015). The data provided by the CMIEG should be preferred to the information contained in the Background Paper.

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26 August 2016

¹ Australian Bureau of Statistics, Australian and New Zealand Standard Industrial Classification (ANZSIC), 2006 (Revision 1.0), Catalogue No. 1292.0