

Form F52 Order Requiring Production of Documents etc. to the Fair Work Commission

Fair Work Act 2009, s.590(2)(c)

Fair Work Commission Rules 2013, Rule 54

FAIR WORK COMMISSION

Commission Matter No.: AM2014/190

Applicant:

Coal Mine Industry Employer Group

(consisting of BHP Billiton Limited (ACN 004 028 077); Centennial Coal Company Limited (ACN 003 714 538); Curragh Queensland Mining Pty Ltd (ABN 55 095 450 418); Ensham Resources Pty Limited (ACN 011 048 678); Fitzroy Australia Resources Pty Ltd (ABN 14 615 772 391); Glencore Coal Pty Limited (ACN 082 271 930); Jellinbah Resources Pty Ltd (ACN 010 825 215); Peabody Energy Australia Coal Pty Limited (ACN 001 401 663); Rio Tinto Coal Australia Pty Limited (ACN 010 542 140); South32 Limited (ACN 093 732 597); Whitehaven Coal Mining Limited (ACN 086 426 253); Yancoal Australia Ltd (ACN 111 859 119) and each of their associated entities operating in the black coal mining industry.)

Respondents: Construction, Forestry, Mining and Energy Union;

The Association of Professionals, Engineers, Scientists and Managers, Australia; and

"Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU)

TO:

Coal Mines Insurance Pty Limited
Level 21, 44 Market Street

Pursuant to s.590(2) of the *Fair Work Act 2009* you are **ORDERED** to provide to the Fair Work Commission the documents, records and other information specified in the Schedule to this order before the Fair Work Commission at the following time, date and place:

Time: 4:00pm AEDT

Date: 20 November 2017

Place: Terrace Tower, 80 William Street, East Sydney; and electronically to chambers.kovacic.dp@fwc.gov.au

Dated: 9 November 2017



Note:

- This order has been issued at the request of the Applicant.
- You can apply to have this order set aside or varied.
- Instead of attending to provide the documents etc. covered by this order at the time and place specified above, you may produce them to an officer of the Commission at the place specified above not later than 4.00 pm on the day before the day mentioned above.
- If you have any queries in relation to this order please contact the associate to Deputy President Kovacic on (02) 6152 2911.

SCHEDULE

1. Item 5 of the Order issued on 8 December 2016 to Coal Mines Insurance Pty Limited by the Fair Work Commission (**Order**) required production of the following:

"5. Data showing the number of claims for workers' compensation under insurance policies held with CMI, in relation to which any payments for accident pay were made, which were indemnified under policies held with CMI, in each year, for the period 1973 to 2016."

Please provide an updated response for the years 2015 and 2016, and in addition provide information in response to this item for the year 2017.

2. Item 6 of the Order required production of the following:

"6. In respect of the claims for workers' compensation under insurance policies held with CMI, in relation to which any payments for accident pay were made, which were indemnified under policies held with CMI, data showing the period of time for which payments for accident pay were made, in each year, for the period 1973 to 2016."

This item was clarified by way of an email of David Gunzburg to Coal Mines Insurance Pty Limited (**CMI**) on 4 January 2017 stating the item sought data relating to *"each injury which occurred in ... each "accident year" "*.

Please provide an updated response for the years 2015 and 2016, and in addition provide information in response to this item for the year 2017, in accordance with the clarification provided.

3. In respect of the claims for workers' compensation under insurance policies held with CMI, in relation to which any payments for accident pay that were made that were indemnified under policies held with CMI, please provide data showing the length of time taken for the injured worker to return to work for each injury which occurred in each accident year, for the period of time 1973 to 2016.

(Note: Subject to the way in which the data is recording by CMI, it is preferable that data is provided that separately identifies durations of time off work in one week intervals).

Notes:

- (A) In respect of each item required to be produced, a reference to Coal Mines Insurance Pty Limited or "CMI", includes a reference to each of its predecessors including, but not limited to, Mine Owners Insurance Ltd.
- (B) "Accident pay" has the same meaning as in an industrial instrument (including an award, enterprise agreement or other collective agreement), order or determination of a tribunal (including but not limited to the Coal Industry Tribunal, the Australian Conciliation and Arbitration Commission, the Australian Industry Relations Commission, Fair Work Australia, the Fair Work Commission, the Industrial Commission (of New South Wales) and the Industrial Relations Commission of New South Wales) for accident pay.
- (C) "Document" has the same meaning as under the *Evidence Act 1995* (Cth).
- (D) The singular includes the plural and the plural includes the singular.
- (E) A reference to any corporation, whether expressly identified or not, includes a reference to any associated entity, related body corporate, representative or agent of that corporation.



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