



DETERMINATION

Fair Work Act 2009

s.160—Variation of a modern award to remove ambiguity or uncertainty or correct error

Family and domestic violence leave review 2021 (AM2021/55)

BLACK COAL MINING INDUSTRY AWARD [MA000001]

Coal industry

JUSTICE HATCHER, PRESIDENT
VICE PRESIDENT CATANZARITI
COMMISSIONER SPENCER

SYDNEY, 10 MARCH 2023

Family and domestic violence leave review 2021 – paid family and domestic violence leave – Black Coal Mining Industry Award.

A. Further to the Full Bench decision issued by the Fair Work Commission on 10 March 2023 [[2023] FWCFB 39], the above award is varied as follows:

1. By deleting clause 11.2(b).
2. By renumbering clause 11.2(a) as a paragraph under clause 11.2.
3. By renumbering clauses 11.2(a)(i) and (ii) as clauses 11.2(a) and (b).
4. By inserting the following note as a new paragraph after the words “This rate (inclusive of the 25% loading) is the casual minimum hourly rate.” at the end of clause 11.2:

NOTE: The casual loading is payable instead of annual leave, personal/ carer’s leave and paid community service leave entitlements under this award.

5. By deleting clause 28—Unpaid family and domestic violence leave and inserting the following:

28. Family and domestic violence leave

Family and domestic violence leave is provided for in the NES.

NOTE 1: Information provided to employers concerning an employee’s experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers are subject to confidentiality requirements regarding the handling of this

information under section 106C of the Act and requirements as to what can be reported on payslips pursuant to regulations 3.47 and 3.48 of the *Fair Work Regulations 2009*.

NOTE 2: Depending upon the circumstances, evidence that would satisfy a reasonable person of the employee's need to take family and domestic violence leave may include a document issued by the police service, a court or family violence support service, or a statutory declaration.

6. By updating the table of contents and cross-references accordingly.

B. This determination comes into operation on 15 March 2023. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect in relation to a particular employee until the start of the employee's first full pay period that starts on or after 15 March 2023.



PRESIDENT

Printed by authority of the Commonwealth Government Printer