



DRAFT DETERMINATION

Fair Work Act 2009

s.158 - Application to vary a modern award

Construction, Forestry, Mining and Energy Union
(AM2016/34)

BLACK COAL MINING INDUSTRY AWARD 2010
[MA000001]

Coal industry

SENIOR DEPUTY PRESIDENT HAMBERGER

SYDNEY, XX DECEMBER 2016

Coverage – classifications – Mines Rescue employees.

A. It is ordered that the above award be varied as follows:

1. By inserting the following definition in clause 3.1 in alphabetical order:

mines rescue service means an entity which is established for the purpose of providing mines rescue activities, pursuant to relevant State legislation, within the black coal mining industry

2. By replacing “award.” at the end of clause 4.1(b)(ii) and inserting “award; and”.

3. By inserting new clause 4.1(b)(iii) as follows:

(iii) employees employed by a mines rescue service.

4. By renumbering the paragraph in clause 15 as clause 15.1.

5. By inserting clause 15.2 as follows:

15.2 Schedule H—Mines Rescue Service Employees applies to employees of mines rescue services.

6. By inserting the following definition in Schedule B.1—Employment functions immediately after the definition of ‘Assistant Surveyor’:

Training officer means an employee of a mines rescue service who undertakes training of coal mine employees and other persons in respect to mines rescue equipment or procedures.

7. By inserting the following classifications in Schedule B.2.1—Group H:
 - Mines Rescue Training Officer Level 1
 - Mines Rescue Technical Officer Level 1
 - Occupational Hygienist/Statutory Dust Sampler
8. By deleting ‘Planning Officer Occupational Health Nurse’ appearing in Schedule B.2.1—Group I and inserting the following:
 - Planning Officer
 - Occupational Health Nurse
9. By inserting the following classifications in Schedule B.2.1—Group I:
 - Mines Rescue Training Officer Level 2
 - Mines Rescue Technical Officer Level 2
10. By inserting the following classifications in Schedule B.2.1—Group J:
 - Mines Rescue Training Officer Level 3
 - Mines Rescue Technical Officer Level 3
11. By inserting the following classifications in Schedule B.2.1—Group K:
 - Mines Rescue Training Coordinator
 - Mines Rescue Senior Technical Officer
12. By inserting the following classification in Schedule B.2.1—Group L:
 - Mines Rescue Assistant Superintendent
13. By inserting the following classification in Schedule B.2.1—Group M:
 - Mines Rescue Superintendent
14. By inserting new Schedule B.2.4 as follows:

B.2.4 Training and Development – Mines Rescue Training Officers

The employer will provide reasonable training and development as is required for the employee to undertake their role, or as required by the employer, so that employees:

- (a) maintain competencies and a skills base in order to carry out the requirements of their role;

- (b) can demonstrate the capability to undertake any reasonable tasks required by the employer;
- (c) are supported to progress through the classifications set out in clause B.2.1, as agreed by the employee and employer.

15. By inserting new Schedule H as follows:

Schedule H—Mines Rescue Service Employees

H.1 The following provisions will apply to mines rescue service employees only. The provisions in this Schedule will prevail over any other term of the award, to the extent of any inconsistency.

H.2 Stand-by allowance

A stand-by allowance calculated on a daily basis will be payable to employees who are placed on a stand-by roster, at the following rates:

H.2.1 for employees on a Monday to Friday stand-by roster—\$79.77 (10.26% of the standard rate);

H.2.2 for employees on a stand-by roster that includes Saturday and/or Sunday—\$145.47 (18.71% of the standard rate);

H.2.3 for Duty Officers on a Monday to Friday stand-by roster—\$93.84 (12.07% of the standard rate);

H.2.4 for Duty Officers on a stand-by roster that includes Saturday and/or Sunday—\$187.69 (24.14% of the standard rate).

H.3 Stand-by rosters

When formulating a stand-by roster, the employer will ensure that an employee is not continuously on stand-by for more than two consecutive week-ends or for more than two consecutive working weeks (other than in exceptional circumstances).

H.4 Overnight travel

An employee required by the employer to be absent from his or her normal residence overnight, will be provided with one of the following at the discretion of the employer:

H.4.1 a reasonable standard of hotel/motel or site camp accommodation and one evening meal and one breakfast meal, free of charge; or

H.4.2 an expense related allowance of at least equivalent value to clause H.4.1 above; or

H.4.3 reimbursement of overnight accommodation and meal expenses on the basis of the standard provided for in clause H.4.1 above.

H.5 Work related travel

An employee will not be required by the employer to travel outside of his or her own normal working hours for work related purposes without appropriate compensation or time off in lieu, as agreed to by the employer and employee. This provision excludes an employee's commute from his or her residence to normal place of work.

H.6 Emergencies

In the event of a mine site emergency involving the deployment of mines rescue service employees, the following provisions of the award will be suspended for the duration of the emergency, upon the direction of the Mines Rescue Superintendent, or Assistant Superintendent:

H.6.1 clause 17.6—Rest period after working overtime.

H.6.2 clause 21.1—Ordinary hours of work.

H.6.3 clause 22—Shiftwork.

H.6.4 clause 24—Meal breaks.

Provided that nothing in this clause will be read as releasing the employer from payment of the normal shift allowances, penalties and overtime rates of pay that are payable for the work undertaken by employees.

H.7 Medical retirement

Should an employee be subject to medical retirement, they will be entitled to severance pay at the rate of one week's pay for each year of service in addition to all other accrued entitlements.

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

B. This determination comes into operation from xx December 2016. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after xx December 2016.

SENIOR DEPUTY PRESIDENT