

BMA Enterprise Agreement 2022

Clause comparison as against the Black Coal Mining Industry Award 2020



Introduction

The *Black Coal Mining Industry Award 2020* (**Award**) does not apply to you when the EA applies to you. This document is intended to give you a general understanding of the key differences between the Award and the proposed BMA Enterprise Agreement 2022 (**Proposed Agreement**). The tables below are not intended to be comprehensive. When considering how each clause of the Proposed Agreement is different from the Award, you should compare the actual clauses of the two documents – and the tables below help you find those clauses.

Classification comparison table	
Classification under the Proposed Agreement	Corresponding classification under the Award
Non-Adult Apprentices	Apprentices other than adult apprentices
Adult Apprentices	Adult Apprentices
Trainees	Trainee Schedule E to the Miscellaneous Award 2020 (see clause 17.4 of the Award)
Adult Trainees	Adult Trainee Schedule E to the Miscellaneous Award 2020 (see clause 17.4 of the Award)
Employees of BHP Coal Pty Ltd who perform work which is covered by Schedule A (Production and Engineering Employees) of the Black Coal Mining Industry Award 2020.	Schedule A, Mineworkers – Induction Level 1 to Mineworker – Specialised

1. Terms of the Proposed Agreement that are more beneficial than the Award include:

Proposed Agreement	Award	Comments
Clause 4.2 – Employee Duties	Schedule A, clause A.8.2	Clause 4.2 provides for payment at the Agreement rates of pay for all time reasonably spent travelling outside rostered shift hours when required to work at a temporary location. Under the Award, payment is only required to be made beyond the time usually spent in travel and/or reimbursement for reasonable expenses beyond the expenses usually incurred when traveling between home and the ordinary location.
<ul style="list-style-type: none"> Clause 9 – Salary Schedule 1, clause 15 Schedule 2, clause 12 Schedule 4, clause 11 Schedule 7, clause 11 Schedule 8, clause 21 Schedule 9 	Clause 17.1 – minimum rates and allowances Clause 17.4 – National training wage <ul style="list-style-type: none"> Schedule A, – Minimum rates Apprentice/Trainee minimum wage arrangements 	The Proposed Agreement provides wage and annual salary rates which are greater than the Award. The Proposed Agreement also provides for guaranteed pay increases of 4% per year for the three years of the Proposed Agreement.

1. Terms of the Proposed Agreement that are more beneficial than the Award include:		
Proposed Agreement	Award	Comments
<ul style="list-style-type: none"> All wage based conditions 		
Clause 11.2(a) – Starting and finishing times	Clause 15.2 – Shift starting and finishing times	Under clause 11.2 of the Proposed Agreement, the starting and finishing times must be agreed between the Company and the majority of the affected Employees. The Award provides that only shifts which are in excess of 10 ordinary hours require the start and finish times to be agreed between the Company and its employees. Otherwise, the start and finish times are determined by the Company.
Clause 11.4(c) – Change of shift	Clause 15.5 – Changes to rosters	<p>Clause 11.4(c) of the Proposed Agreement provides for:</p> <ul style="list-style-type: none"> four weeks' notice where the employee changes to a non-continuous shift roster (or a lesser period as agreed by the Company and the majority affected employees); otherwise, a minimum of 1 weeks' notice; where less notice is given the employee to be paid at overtime rates for all work from the time of change of shift until that notice period would have expired). <p>The Award provides 1 week notice (or where less notice is given the employee must be paid at overtime rates for all work from the time of the change of shift until the 1 week notice period would have expired).</p>
Clause 18 – Superannuation Schedule 1, Clause 8 - Superannuation	Clause 20 - Superannuation	The Award clause on superannuation is silent on the rate of superannuation contribution. The EA has contributions equal to or above the SGC
Clause 13.6 – Overtime rates, Schedules 2, 4, 7, 8 and Schedule 9 – Career Structure	Clause 21.2 – Payment for Overtime	The Proposed Agreement provides for payment for overtime at set hourly rates which are higher than the current overtime hourly rates in the Award.
Clause 19 – Accident pay	Clause 18 – Accident pay	<p>The Proposed Agreement provides for employees to receive accident pay for a total of up to 78 weeks.</p> <p>The Award provides for a total of up to 52 weeks if the employee was injured after 1 November 2018.</p>
Clause 22 – Annual leave	Clause 24.6 – Payment and loading	<p>The Award excludes shift allowances, other than for seven day roster employees.</p> <p>Under the Proposed Agreement, Employees receive the annualised salary and their bonus during annual leave.</p>
Clause 22.11 – Annual leave – payment on termination	Clause 33.4(a) – payments on termination – accrued annual leave	Under clause 22.11 of the Proposed Agreement, upon termination employees are paid Base Salary and Bonus on leave accruals. The Award provides employees are paid their award base rate only.
Clause 23.5 – Payment of personal/carer's leave	Clause 25.1 – personal/carer's leave and compassionate leave	Clause 23.5 of the Proposed Agreement provides that employees will be paid personal/carer's leave at Base Salary plus bonus. The Award (NES) provides for payment at the base rate of pay for their ordinary hours in the period.
Clause 24 – Compassionate leave	Clause 25.1 – personal/carer's leave and compassionate leave	Employees (other than casual Employees) under the Proposed Agreement are entitled to an additional day of paid compassionate leave for the purposes for travel where an Employee is required to

1. Terms of the Proposed Agreement that are more beneficial than the Award include:		
Proposed Agreement	Award	Comments
		travel in excess of 400kms or 4 hours travel time for the purposes of compassionate leave. The Award does not include this entitlement.
Clause 25 – Parental leave	Clause 26 – Parental leave and related entitlements	The Proposed Agreement provides paid entitlements in accordance with the Company Policy. The Award provides that parental leave is unpaid.
Clause 23.8 – Personal/carer’s leave - Payout on termination of employment	Clause 33.4 – payments on termination – accrued personal/carer’s leave	Clause 23.8 of the Proposed Agreement provides that on termination, (other than for willful misconduct), Employees are entitled to be paid at their Base Salary, including bonus, for all untaken personal/carer’s leave. Under the Award, employees are only entitled to be paid accrued but untaken personal leave at their base rate of pay if they have 70 or more hours of untaken personal leave entitlement and are terminated for one of the following reasons: <ul style="list-style-type: none"> • retrenchment; • retirement at or after age 60; • by the employer because of ill health; or • death.
Clause 32.9 – Redundancy Pay	Clause 34.3 – Severance payment Clause 34.4 – Retrenchment payment Clause 34.6 – Variation of retrenchment pay	Clause 32.9 of the Proposed Agreement provides for redundancy entitlements calculated at the rate of: <ul style="list-style-type: none"> • 13 weeks’ base salary plus 2.5 weeks’ base salary per year of continuous service for the first 26 years of service; and • 3 weeks’ base salary for each subsequent year of continuous service. • No cap This exceeds the Award which provides for: <ul style="list-style-type: none"> • severance payment (one ordinary week’s pay for each completed year of employment); and • retrenchment payment of additional two ordinary weeks’ pay for each completed year of employment up to a maximum of 30 weeks’ pay. • For employees who as at 20 March 2017 had more than 15 completed years of employment and are made redundant after that date, they will be entitled to retrenchment pay of two ordinary weeks’ pay per completed year of employment as at 20 March 2017, regardless of the reason for the redundancy).
Clause 33 – Work clothing	Schedule B, clause B.3.1 – Wage related allowances and reimbursements	The Proposed Agreement provides for full time employees : <ul style="list-style-type: none"> • five shirts and five pairs of trousers; • one pair of safety boots; • one winter style jacket and one lighter style jacket; and • prescription safety glasses as required (including spare glasses). • an additional six items of industrial outer clothing (shirts, trousers and jackets) on an annual basis • replacement by the Company in the event that they are damaged, lost or destroyed, or where arc flash clothing is issued to the Employee and has expired, in the course of work or on fair wear and tear basis. The Award provides that employees will be reimbursed by the employer each year for one pair of safety boots and two sets of industrial outer clothing.

1. Terms of the Proposed Agreement that are more beneficial than the Award include:		
Proposed Agreement	Award	Comments
Schedule 1, clause 6 (Training)	Schedule A, clause A.6.9 – A.6.11	The Proposed Agreement provides that the Company will arrange accommodation and meals where an apprentice or trainee travels to attend a training course. The Company will also arrange transport where the apprentice or trainee is under 18 years of age. Under the Award, the employer is required to pay the excess reasonable travel costs incurred by apprentices.
Schedule 2, Blackwater Mine, Clause 7 (Tools)	Schedule A, clause A.8.3 (Expense related allowances)	Schedule 2, clause 7 (Tools) of the Proposed Agreement provides that trades people employed at Blackwater Mine will receive a tools allowance of not less than \$769 (for the first year of the Proposed Agreement). Under the Award, employees required to provide necessary tools must be paid an allowance of \$12.66 per week (approximately \$658 per year) and employers will continue to supply tools customarily supplied by them.

2. Terms of the Proposed Agreement that are not in the Award include:
Clause 3.6 – Probationary period
Clause 3.7 – Paid suspension
Clause 3.8 – Stand down
Clause 4.5 – Employee Duties
Clause 5 – Training
Clause 6.1– Other duties
Clause 7 – Contractors
Clause 8 – Career Development and Progression
Clause 11.2(b) – hot seat change over
Clause 11.7(e) – Rostered Days Off
Clause 12 – Starting and Finishing Places
Clause 14 – Continuous Improvement
Clause 17 – Bonus
Clause 19.9 – Occupational Health & Safety and Workers' Compensation
Clause 22.8 – Anzac day leave for returned active service
Clause 23.7 – Payout or salary sacrifice of personal/carer's leave during employment
Clause 24 – Compassionate leave
Clause 25 – Paid Parental leave
Clause 26 – Long service leave

2. Terms of the Proposed Agreement that are not in the Award include:
Clause 27.4 – Voluntary emergency management leave
Clause 27.5 – Military leave
Clause 27.6 – Council leave
Clause 28 – Leave without pay
Clause 30.4 – Notice of termination – redundancy
Clause 30.5 – Voluntary early retirement
Clause 30.6 – Replacement of existing Employees
Clause 30.7 – Minimum resourcing
Clause 31 – Security of Employment
Clause 32.10 – Redundancy relocation assistance
Clause 32.11 - Generic Induction and Statutory Health Assessment
Clause 32.12 – Competencies (Training transcript)
Clause 34 – Accommodation and Commute Arrangements
Clause 35 – Approved Advanced Training
Clause 38 – Employee Representatives
Clause 39 – SSHRs and Electrical Safety Representatives
Clause 40 – Death & Disablement Payments
Clause 41 – Functional Work Areas
Clause 42 – Anti-discrimination
Clause 43 – Assistance on Termination due to Ill Health
Clause 44 – Arrangements during Floods
Clause 45 – First Aid Services and Medicals
Clause 46 – Electrical Safety Observer
Schedule 1 - (Apprentices & Trainees)
Schedule 2 (Blackwater Mine), Schedule 4 (Goonyella Riverside Mine), Schedule 7 (Peak Downs Mine), Schedule 8 (Saraji Mine).

3. Terms of the Proposed Agreement that are less beneficial than the Award include:		
Proposed Agreement	Award	Comments
Clause 10.5 – Payment of Salary	Clause 19.4 – Payment of wages	The Award provides that upon termination of employment, the employee will be paid wages due within 72 hours. The Proposed Agreement provides that: <ul style="list-style-type: none"> where an employee provides the required notice, wages will be paid in the next pay period where an employee resigns or abandons their employment without the required notice, any outstanding wages may not be paid until seven days after the date of the termination.
Clause 10.6 – Payment of Salary	Clause 33.1 – Notice of termination by employee	The Proposed Agreement provides that the Company may make deductions from termination pay for the value of any Company-owned property not returned upon termination, payments for leave afforded to the Employee in advance, previously identified uncovered overpayments, and any overpayment amounts identified and substantiated at the time of termination. The Award does not provide for deductions for these reasons.
Clause 10.7 – Payment of Salary	N/A	The Proposed Agreement provides that upon termination, the employee assumes responsibility for any outstanding payments or amounts owed under any novated lease arrangement. This is not included in the Award.
Clause 13.5(b) and (c) – Meal allowance	Clause 16.2(b) and (c) – Meal allowance; Schedule A, clause A.8.3; Schedule B, clause B.3.2.	The meal allowance rate under the Proposed Agreement is \$15. The Award requires employees be supplied with a meal or a meal allowance of \$16.77 per meal.
Clause 22.12 (Annual leave)	Clause 24.11(b) – Excessive leave accruals: general provision	Under the Proposed Agreement, the Company must provide at least 28 days' notice in writing to the Employee of the requirement to take leave. Under the Award, the employer must provide between 8 weeks' and 12 months' notice.
Clause 30.1 – Termination by Employee	Clause 33.1(c) – Notice of termination by an employee	Under the Award, an employee (other than Apprentices and Trainees) can give part of the one week's notice period, and the employer will then deduct from their wages the remaining part of the one week notice period or agree to a shorter notice period, in which case no deduction can be made. Under the Proposed Agreement, an Employee must either give one week's notice of termination or forfeit one week's pay instead of giving notice.

4. Terms of the Award that contain entitlements that are not included in the Proposed Agreement include:
Clause 3.3 – Part time employment – requirement to agree in writing on a regular pattern of work, the hours worked each day, which days of the week the employee will work and the actual starting and finishing times each day, and that any agreed variation to the regular pattern of work.
Clause 13 and Schedule I – Mines Rescue Service Employees
Clause 17.2 – Mixed functions
Clause 21.4 – Minimum payment for overtime on Saturday and Sunday
Clause 21.11 – Time off instead of payment for overtime

Clause 29.5 – Notice of public holidays to be worked (other than employees working shifts of up to 8.5 ordinary hours)
Clause 24.12 – Excessive leave accruals: request by employee for leave
Schedule A, Clause A.6.12 (Apprentices) - training fees charged by an RTO for prescribed courses to be reimbursed by the employer
Schedule A, Clause A.6.16 (Apprentices) – circumstances when not required to work overtime or shiftwork
Schedule A, Clause A.7 (Juniors)

5. Clauses where the Proposed Agreement and the Award are different include:		
Proposed Agreement	Award	Comments
Clause 3.1 – Types of work arrangements Clause 3.4 – Casual employment Clause 3.5 – Temporary employment	Clause 8.1 – Types of employment	The Award does not provide the ability to engage Schedule A employees on a casual basis. The Proposed Agreement provides that casual employees can be engaged but will receive an additional 25% of base salary in lieu of specified full time benefits. The Proposed Agreement also provides that the Company may engage an employee on a temporary basis for a fixed term or specific task or in a supplementary capacity.
Clause 6.2 – Individual Flexibility Term	Clause 5 – Individual flexibility arrangements	The Award allows employees and the company to enter into flexibility agreements in different circumstances.
Clause 9.3, Schedules 1, 2, 4, 7, 8, 9 – Salaries inclusive of specified allowances;	Clause 17/Schedule A.8.2 – Minimum rates and allowances	The Award provides for employees to receive various allowances, which are contained in the Base Salary rates in the Proposed Agreement.
Clause 10.2 – Payment of Salary	Clause 19.2 – Payment of wages	Under the Proposed Agreement, wages are paid by electronic funds transfer. Under the Award, wages may be paid either by cheque or electronic funds transfer.
Clause 11 – Ordinary Hours of work	Clause 15.1 – Rostering of hours and length of shifts	Clause 11. of the Proposed Agreement sets out a procedure for setting rosters. The Award does not include equivalent procedures.
Salary clauses in Schedules 1, 2, 4, 7, 8, 9	Clause 23.1 – Penalty rates and weekend work	Clause 23.1 of the Award provides for penalty rates for work performed on Saturday or Sunday. The annual base salary provided to Employees under the Proposed Agreement compensates for penalty rates that would otherwise be payable under the Award.
Clause 29 – Salary packaging	Clause 19.5 – Payment of wages	The Award acknowledges that a salary sacrificing arrangement may be agreed between an employer and individual employee but does not identify types of salary sacrificing that may occur. The Proposed Agreement provides that salary sacrificing arrangements will be offered to all Employees on a cost neutral basis.
Clause 20 – Breaks	Clause 16 – Breaks	While the Proposed Agreement and Award contain similar provisions on the duration and frequency of meal breaks, the Proposed Agreement also contains provisions to enable crib breaks to be taken in a more flexible manner (for example crib breaks will be staggered)

5. Clauses where the Proposed Agreement and the Award are different include:		
Proposed Agreement	Award	Comments
		and for the Company to provide suitable crib facilities and suitable transport for employees to minimize time to and from crib facilities.
Clause 21 – Public Holidays	Clause 29- Notice of public holidays to be worked (other than employees working shifts of up to 8.5 ordinary hours)	<p>The Award states that on a date agreed, the employer will nominate which public holidays will be worked in the following 12 months by employees provided that work will not to be carried out on two of such holidays.</p> <p>The Proposed Agreement provides for substituted public holidays except for Christmas and Boxing Day for 7DR Employees. The Proposed Agreement provides that Christmas and Boxing Day are non-working days (other than ERT) and employees cannot be directed to perform work.</p> <p>The Award provides penalty rates for rostered work. In the Proposed Agreement, these rates for rostered hours are included in the annualised salary.</p> <p>The Proposed Agreement states that the Company may roster Emergency Response Employees to commence work six hours before commencement of night shift in order to enable resumption of night shift work on Boxing Day.</p>
Clause 22.5 – Annual leave – taking leave Clause 22.6 – Annual leave quotas	Clause 24.5 - Amount of annual leave to be taken	<p>Under the Proposed Agreement, there are minimum periods of notice by Employees for periods of annual leave. The Proposed Agreement also has annual leave quotas for annual leave approvals.</p> <p>Unless otherwise agreed, the Award requires that annual leave be given and taken in not more than 3 periods, one of which is at least three weeks' duration.</p>
Clause 22.12 -Annual leave shutdown	Clause 24.10/11 – Excessive leave accruals:	<p>Under the Proposed Agreement, if an employee has accrued excessive leave annual leave entitlements in excess of the equivalent of 2 years annual leave accrual, the Company can require an Employee to take one year's accrued annual leave (5 or 6 weeks). In this case, the Company will provide at least 28 days' notice in writing to the Employee.</p> <p>Under the Award, if an employee has accrued more than 10 weeks paid annual leave, there are processes for leave to be taken or directed.</p>
Clause 22.13 – Taking annual leave before it is accrued	Clause 24.13 – Annual leave in advance	The Proposed Agreement provides a mechanism for the Company, at its discretion, to agree to allow an employee to take annual leave before it is credited. The Award also provides such a mechanism, but includes additional requirements.
Clause 23.3 & 23.4 - Personal leave – Notice and evidence	Clause 25.3 – Evidence required	<p>The Proposed Agreement requires an Employee taking personal/carer's leave to notify their supervisor of their absence in accordance with the requirements set out in clause 23.3.</p> <p>In the Proposed Agreement, where the Company is concerned that an Employee is developing an apparent pattern of absences over a reasonable period of time, the Company may require Employees to produce evidence on all future occasions and will review the amount of personal/carer's leave claimed by the Employee on an ongoing basis.</p> <p>The Award provides that an employer can request a medical certificate or 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.</p>

5. Clauses where the Proposed Agreement and the Award are different include:		
Proposed Agreement	Award	Comments
<p>Schedule 1 (Apprentices & Trainees), clause 14 – School-based apprentices</p> <p>Schedule 1 (Apprentices & Trainees), clause 15 – Classification & rates of pay</p>	<p>Clause 17.3 – School-based apprentices</p> <p>Schedule A, Clause A.6.7 - Apprentices</p>	<p>The Proposed Agreement provides for school-based apprentices to be paid a loading of 20% in lieu of entitlements to annual leave, paid personal/carer's leave, community service leave, other leave, public holidays, notice of termination of employment, redundancy and accommodation under the Proposed Agreement.</p> <p>The Award does not include a loading in lieu of leave and other entitlements.</p>