

Proposed Agreement and Black Coal Mining Industry Award

The tables below summarise and explain the terms of the Operations Services Maintenance Agreement (**Proposed Agreement**) as compared with the *Black Coal Mining Industry Award 2020*. The table below is intended to assist you understanding the Proposed Agreement, but it is not a substitute for reading the Proposed Agreement and the *Black Coal Mining Industry Award 2020*.

If you would like any further information, or you need any assistance in understanding the summary below, please contact your Line Leader.

Table A: Terms of Proposed Agreement that are more beneficial than terms in the <i>Black Coal Mining Industry Award</i>			
Term in Proposed Agreement		Term in Modern Award	
<p>Clause 7 provides that Employees are paid an annual fixed cash reward for their roster (described in the Proposed Agreement as “Annual Salary”). The Annual Salary referred to in the Proposed Agreement includes allowances, loadings, penalties and overtime and other amounts payable for rostered hours, and is calculated in accordance with the formula in schedule 1 (the Above Award Guarantee).</p> <p>The current Annual Salary currently paid to any Employee for their role and roster under their contract at the commencement of the Agreement will:</p> <ul style="list-style-type: none"> not be reduced during the term of the Agreement unless the employee changes to a roster or a position with a different Annual Salary. not be less than the Above Award Guarantee but may be higher than the Above Award Guarantee. Be reviewed annually to guarantee a minimum annual increase having regard to AAG and ARR increases, with a minimum of 4% calculated as per the EA. <p>For the purpose of calculating an Employee’s Above Award Guarantee under the Agreement (other than for apprentices and trainees), the minimum modern award pay level upon which an individual Employee’s Above Award Guarantee will be based is as follows:</p>		<p>The Award sets minimum base rates of pay, overtime rates, shift loadings, penalties and allowances for rostered hours. See in particular clauses 17, 21, 22, 23, Schedules A, C, E, and I of the Award.</p>	
		Minimum award pay level	
Agreement classification of Employee		<i>Black Coal Mining Industry Award</i> covered Employees	<i>Mining Industry Award</i> covered Employees
Non Trades		Mine Worker	Level 4
Trades	All tradespersons, principally performing work on Light Vehicle maintenance	Mine Worker - Advanced	Level 6

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Term in Proposed Agreement				Term in Modern Award
	and repairs			
	0-2 years trade qualified experience	Mine Worker - Advanced	Level 6	
	2+ years trade qualified experience	Mine Worker - Specialised	Level 7	
<p>The Above Award Guarantee for Apprentices and Trainees will be based on the minimum modern award pay level appropriate to their year of apprenticeship or traineeship.</p>				
<p>All salary based entitlements (including redundancy and paid leave – see below), are paid on the higher of existing salary or the above Award Guarantee, which means they are in excess of the award rates.</p>				<p>Wage based entitlements are based on award rates.</p>
<p>Clause 7.9 provides that all un-rostered overtime, will be paid at</p> <ul style="list-style-type: none"> double the Above Award Guarantee hourly roster rate; and triple the Above Award Guarantee hourly roster rate on public holidays 				<p>Clause 21 provides for overtime rates calculated on the award rate which is</p> <ul style="list-style-type: none"> below the EA rates for employees who are not 6 and 7 day roster employees or regular weekend workers, paid at 150% which are rates less than double time for first 3 hours of overtime on Monday to Saturday paid in the EA.).
<p>Clause 11.5 provides that, subject to the employee's remaining accrued entitlement to paid annual leave being no less than 4 weeks, there is no limit on cashing out of annual leave</p>				<p>Clause 24.14(h) provides that the maximum amount of accrued paid annual leave that may be cashed out in any 12 months is 2 weeks.</p>
<p>Clause 11.4 provides that annual leave is paid for at the Annual Salary rate, which includes compensation for any rostered overtime and any other amounts payable for rostered hours.</p> <p>Also, payment does not exclude shift allowances for non-7 day rostered employees</p>				<p>Clause 24.6 provides than an Employee who takes annual leave must be paid the greater of:</p> <ul style="list-style-type: none"> the employee's ordinary rate of pay plus a loading of 20%; or the employee's rostered earnings for the period of annual leave, which includes all rostered overtime and rostered public holidays , but it excludes shift allowances for non-7 day rostered employees.
<p>Clause 12.1(c) provides for accrued but untaken personal/carer's leave to be paid out on termination of employment at the Employee's Annual Salary rate, other than where:</p> <ul style="list-style-type: none"> termination is a result of serious misconduct; the Employee is within probation; or personal/carer's leave transfers to a new employer (e.g. because there is or will be a transfer of 				<p>Clause 33.4(b) only allows for accrued but untaken personal/carer's leave to be paid out at the employee's award base rate of pay on termination and only where 70 or more hours has been accrued and untaken, and the employee is terminated:</p> <ul style="list-style-type: none"> by retrenchment; by retirement at or after age 60; by the employer because of ill health; or

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Term in Proposed Agreement	Term in Modern Award
<p>employment within the meaning of the FW Act whereby the Employee's personal/carer's leave balance will transfer).</p>	<ul style="list-style-type: none"> by death.
<p>Clause 12.2 provides for personal/carer's leave to be paid at an Employee's Annual Salary rate (which includes compensation for any rostered overtime/penalty rates).</p>	<p>Personal/carer's leave is paid at the employee's base rate of pay for ordinary hours of work in accordance with the NES</p>
<p>Clause 14 provides that an Employee is entitled to</p> <ul style="list-style-type: none"> Parental Leave in accordance with the NES; and For the Term of the Agreement, Paid parental leave at Salary in accordance with the BHP Group Parental Leave Australia Policy 	<p>Clause 26 currently provides for unpaid Parental Leave in accordance with the NES</p>
<p>Clause 16 provides that an Employee is entitled to</p> <ul style="list-style-type: none"> Community Service Leave in accordance with the NES; and For the term of the Agreement, the entitlements in accordance with the BHP Group Public Service Leave - Australia Policy Any paid leave to be paid at an Employee's Annual Salary rate 	<p>Clause 27 provides for community service leave in accordance with the NES and where paid, is paid at the employee's base rate of pay for ordinary hours of work.</p>
<p>Clause 17 provides that an Employee is entitled to</p> <ul style="list-style-type: none"> paid family and domestic violence leave in accordance with the NES; and for the term of the Agreement, the entitlements in the BHP Group Family and Domestic Violence Support Policy <p>Paid leave to be paid at an Employee's Annual Salary rate</p>	<p>Clause 28 provides for family and domestic violence leave in accordance with the NES. The NES provides 10 days of paid family and domestic violence leave at the employee's full rate of pay, worked out as if the employee had not taken the period of leave.</p>
<p>Clause 25 provides that redundancy payments will not fall below the award. Payments are the greater of:</p> <ul style="list-style-type: none"> the Award; the NES; and for the term of the Agreement, the entitlements in the BHP Redundancy Termination Australia Policy. <p>Redundancy payment rates in the policy are higher than the current award payments. Redundancy pay is paid at an Employee's Annual Salary rate.</p>	<p>Clause 34 of the Award provides for the quantum of redundancy payments in place of the NES:</p> <ul style="list-style-type: none"> Severance pay is one ordinary week's award rate of pay for each completed year of employment. Retrenchment pay is an additional 2 ordinary weeks' award rate of pay for each completed year of employment (up to a maximum of 30 weeks) only where redundancies occur due to: <ul style="list-style-type: none"> technological change; market forces; or diminution of reserves,

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Term in Proposed Agreement	Term in Modern Award
<p>Clause 26.2 provides for four weeks' of notice from the Company to terminate an Employee's employment (other than for probationary employees). Additionally, clause 26.4 provides that the period of notice for termination by the Company shall increase by one week (equivalent to 5 weeks of notice) if the Employee is over 45 years old and has completed more than two years continuous service.</p> <p>The Proposed Agreement does not provide for deduction of notice from wages if an employee does not give one week's notice.</p>	<p>Clause 33, read together with NES, provides that the period of notice for termination by the employer is:</p> <ul style="list-style-type: none"> • For an employee with less than one year continuous service – one week • For an employee with one to three years continuous service – two weeks • For an employee with three to five years continuous service – three weeks • For an employee with more than five years continuous service – 4 weeks • And an additional week if the Employee is over 45 years old and has completed more than two years continuous service. <p>Provided that a minimum 4 weeks (plus one additional week if the employee is over 45 years old and has completed more than five years of service) is payable under clause 33.3 of the Award in the event of termination by reason of redundancy.</p> <p>Clause 33.1(c) provides that if an employee does not give a one week period of notice of termination, then the employer may deduct from wages due to the employee an amount that is no more than one week's wages.</p>

Table B: Terms in the Proposed Agreement that are not in the *Black Coal Mining Industry Award*

Term in Proposed Agreement
<p>Clause 3.3 provides that the National Employment Standards (NES) apply to all Employees as the minimum standard, so that where there is an inconsistency between the NES and a clause of the Proposed Agreement,</p> <ol style="list-style-type: none"> 1. the NES will apply and 2. the clause of the Proposed Agreement will not apply, except to the extent that the clause of the Proposed Agreement provides for a more beneficial outcome for employees than the NES.
<p>Clauses 6.3 to 6.5 provide Employees are employed to work at deployments within a hub as directed by the Company from time to time and sets out conditions on changing hubs.</p>
<p>.</p>
<p>Clause 7.16 provides Employees may be eligible to participate in the Company Incentive Program.</p>
<p>Clause 7.17 provides that where an overpayment of salary or entitlements has occurred, Employees must repay the overpayment, but within a reasonable period of time. Where the overpayment is not repaid within a reasonable period of time, the proposed Agreement provides that the Company is authorised to deduct and retain any overpayments from the Employee's pay, including from termination payments to the fullest extent permitted by law and section 324 of the FW Act.</p>
<p>Clause 7.19 provides that where the Company requires an Employee to obtain or maintain a HV Switching or State Electrical Licence, the Company will reimburse the Employee for:</p>

<ul style="list-style-type: none"> the cost of the licence; and the cost of any required training course that has been approved in advance by the Company.
<p>Clause 8 provides for measures to improve superannuation accruals through</p> <ul style="list-style-type: none"> access to salary sacrifice for superannuation access to Superannuation Co-contribution arrangements
<p>Clause 9.1 provides Employees may be required to work reasonable un-rostered overtime.</p>
<p>Clause 9.2 provides that a rostered shift includes shift handovers to be completed in rostered hours as directed at the start and end of the shift.</p>
<p>Under Clause 9.4 employees acknowledge the rostered hours are reasonable having regard to, among other things, the operational requirements of the workplace, the roster arrangements and the Annual Salary. The acknowledgment may result in the hours being held to be reasonable in any dispute about the reasonableness of additional hours within a roster. However because of the NES and clause 3 of the Agreement, these provisions remain subject to section 62 of the NES.</p>
<p>Clause 9.6 provides that reasonable time taken to travel to or from the area designated by the Company for crib will be counted as time worked and will not be counted as part of the meal break.</p>
<p>Clause 18 enables an Employee to make an application for leave without pay. The Company can determine the response to any applications.</p>
<p>Clause 19 provides that arrangements in the event of severe wet weather will be dealt with in the relevant asset or mine policy. Where Employees cannot get to work due to severe wet weather or a cyclone, they are enabled to utilise accrued annual leave if they desire.</p>
<p>Clause 20 (accommodation and travel) provides for accommodation and travel arrangements for local, commute and FIFO employees.</p>
<p>Clause 27 provides for a procedure to request and receive a reconciliation of the amounts payable to Employees to ensure that each Employee receives at least the Above Award Guarantee, on the rostered hours actually worked.</p>
<p>Schedule 1 is a formula for calculating the AAG defined by clause 7.</p>

Table C: Terms of Proposed Agreement which are less beneficial than the term in the <i>Black Coal Mining Industry Award</i>	
Term in Proposed Agreement	Term in Modern Award
<p>Time off in lieu may be agreed for un-rostered overtime under clause 7.9, and periods of training under clause 7.13 without agreement, but not otherwise.</p>	<p>Clause 21.11 provides for arrangements where an employer and employee may agree in writing for an employee to take time off instead of being paid for a particular amount of overtime worked by the employee</p>
<p>Clause 7.12 provides that an Employee who is recalled to work overtime after leaving the workplace (whether the Employee was notified before or after leaving the workplace) will be paid for at least four hours work at the unrostered overtime rate for each time they are recalled. Provided that this does not apply:</p> <ul style="list-style-type: none"> where it is customary for an Employee to return to the workplace to perform a specific job outside the Employee's ordinary working hours; 	<p>The Award provision in clause 21.8 is broadly consistent, save that the Agreement has an additional exception – that the overtime minimum payment under the Agreement does not apply to a second or subsequent call out if that call out is made before completion of the first call-out.</p>

Table C: Terms of Proposed Agreement which are less beneficial than the term in the *Black Coal Mining Industry Award*

Term in Proposed Agreement	Term in Modern Award
<ul style="list-style-type: none"> • where the overtime is continuous (subject to a reasonable meal break) with the end or start of ordinary working time; or • to a second or subsequent call out if that call out is made before completion of the first call-out. <p>Overtime worked on a call-back of less than four hours will not be regarded as overtime for the purposes of a rest period if the actual time worked is less than four hours on any recall or on each of any recalls.</p>	
<p>Clause 7.14 provides that Annual Salary under the Proposed Agreement will be averaged over a year and paid fortnightly in arrears.</p>	<p>Clause 19.1 provides that unless otherwise agreed between the employer and the majority of employees, wages will be paid weekly.</p>
<p>The Proposed Agreement requires fortnightly (14 days) payment of entitlements.</p>	<p>Clause 19.4 provides that upon termination of employment, wages due to an employee will be paid on the day of such termination or forwarded by post or paid by EFT within 72 hours.</p>
<p>Clause 9.5 of the Proposed Agreement provides that an Employee can be rostered to work a shift length where the ordinary hours of the shift do exceed 10 hours, but shall not be rostered to work more than 12.5 hours in any one shift. This may or may not include both ordinary and rostered overtime hours.</p>	<p>Clause 15.1 provides that an employer may determine the shift length to be worked where the ordinary hours of the shift do not exceed 10 hours. A shift may be longer than 10 ordinary hours where the employer and the majority of affected employees agree or resolved in accordance with the Dispute Resolution clause of the Award.</p>
<p>Clause 9.5 of the Proposed Agreement provides that the Company will determine starting and finishing times for all shifts (i.e. regardless of whether they are 10 ordinary hours or longer).</p>	<p>Clause 15.1 provides that an employer may determine the shift start and ceasing times where the ordinary hours of the shift do not exceed 10 hours. Starting and ceasing times for shifts longer than 10 ordinary hours require the agreement of the employer and the majority of affected employees or resolved in accordance with the Dispute Resolution clause of the Award.</p>
<p>Clause 9.5 of the Proposed Agreement provides that the Company will determine starting and finishing places.</p> <p>Clause 9.5 also provides that the Company will give at least 7 days' notice of any change to start and finish places, unless otherwise agreed between the Company and the Employee or there are operational requirements that require a shorter period of notice (or the Employee is moving permanently from a non-continuous roster to a rotating continuous roster in which case the reference to 7 days is to be taken as 14 days).</p>	<p>Clause 15.4 of the Award provides that</p> <ul style="list-style-type: none"> • The starting and finishing places of a shift: <ul style="list-style-type: none"> ○ are to be agreed between the employer and the majority of affected employees; or ○ in the absence of agreement, are resolved in accordance with the procedure in clause 32—Dispute resolution. • At underground mines, the designated starting and finishing place will be on the surface.
<p>Under 9.6 of the Proposed Agreement, Employees will not be required to work more than 5 hours without a meal and rest break.</p>	<p>Clause 16.1 provides an employee will not be required to work for more than 5 hours without a meal break, provided that if an employee agrees to work more than 5 hours unless otherwise agreed they will be paid for any work beyond 5 hours at the applicable overtime rates until a meal break is taken.</p>

Table D: Terms in the *Black Coal Mining Industry Award* that are not in the Proposed Agreement

Term in Modern Award
Schedule A (see in particular clause A.6.9 – A.6.16) provides for apprentice conditions of employment that are not included in the EA
Schedules B and D apply to staff employees. Staff employees are not covered by the Proposed Agreement.
Schedules F to H are award administrative provisions
The Award includes provisions under clause 15.6 governing rostered days off.
Clause 16.2 provides for additional paid meal break entitlements where an employee is required to work non-rostered overtime. (Mine fatigue management policies apply at coal mines covered by the Coal Mine Safety and Health Act (Qld)).
Clause 24.5 provides that annual leave will be given and taken in not more than 3 periods, one of which will be at least 3 weeks' duration.
Clauses 24.10, 24.11 and 24.12 sets out provisions governing excessive leave accruals, where an employee has accrued more than 10 weeks paid annual leave (or 12 weeks paid annual leave for a shiftworker as defined by the award).
Clause 24.13 provides that an employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
Clause 29.2 provides that an employer and employee may agree to substitute another day or part-day for a day or part-day that would otherwise be a public holiday.
<p>Clause 29.5 provides :</p> <ul style="list-style-type: none"> • that if the employer does not require employees to work on a public holiday, the employer must give the employee as much notice as possible of this decision. If the notice of not being required to work is less than 4 weeks, an employee who was rostered is to be paid for ordinary hours as if the public holiday was worked. • if the employer decides that an employee is not required to work on a designated public holiday due to a strike or ban, employees other than those involved in the strike or ban are to be paid at their classification rate for ordinary hours.
Clause 29.6 provides that employees who only work shifts up to 8.5 ordinary hours on weekdays cannot be rostered for ordinary hours on public holidays except in exceptional circumstances
Clause 33.4(b)(ii) provides that where an employer terminates the employment of an employee during a period of absence on paid personal leave, the employee must be paid until the employee has no further accumulation of personal leave or until the employee is fit for duty, whichever occurs first.

Table E: Terms of Proposed Agreement that are different to terms in the *Black Coal Mining Industry Award*

Term in Proposed Agreement	Term in Modern Award
<p>Clause 6 provides:</p> <ul style="list-style-type: none"> • Employees are required to undertake all duties as reasonably directed by the Company that are <ul style="list-style-type: none"> ○ within their skill and competence and, 	<ul style="list-style-type: none"> • Clause 12.2 provides that an Employee must perform work as reasonably required by the employer; and the employer may direct an employee to carry out duties that are within the limits of the employee's skills, competence and training consistent with the respective classification structures of this award provided that the duties:

Table E: Terms of Proposed Agreement that are different to terms in the *Black Coal Mining Industry Award*

Term in Proposed Agreement	Term in Modern Award
<ul style="list-style-type: none"> ○ where required by law, authorised, and ○ in accordance with safe working practices. • Employees will undertake training aimed at maintaining, enhancing or broadening their work skills and work performance as required by the Company and will teach work skills to others as required. 	<ul style="list-style-type: none"> • are not designed to promote deskilling; and • are within safe working practices and statutory requirements. • an Employee must undertake training that the employer reasonably requires (which may include training to maintain their classification or acquire new competencies). • Where an employee does not perform work or undertake training the employee is not entitled to payment for that period. •
<p>For the 4 year term of the agreement your salary will receive a guaranteed increase not less than a 4 % increase on your 30 June Annual Salary.</p>	<p>The award does not have a fixed annual increment. It is dependent on the FWC national wage case.</p>
<p>Clause 7 provides that salaries under the Agreement (including the AAG) are annualized and incorporate/ paid-in-lieu of allowances unless otherwise provided by the proposed agreement eg electrical licence, local and non-local allowances.</p>	<p>The Award is based on based rates with penalties and allowances as they are incurred. These can be found in Schedule A (clause A8 for allowances) and schedule C (for penalties)</p>
<p>Clause 7.13 provides that where the Company directs an Employee to undertake training outside of the Employee's normal shift patterns, the Company will provide time off in lieu or make payment to the Employee in accordance with overtime rates for the period of the training.</p>	<p>Access to overtime or TOIL (by agreement only) would apply for such hours under the Award.</p>
<p>Clause 9.5 provides that the Company will determine starting and finishing times.</p>	<p>Clause 15.2 of the Award provides that Shifts of longer than 10 ordinary hours will be worked between the starting and finishing times:</p> <ul style="list-style-type: none"> ○ that are agreed between the employer and the majority of affected employees; or ○ in the case of a dispute, that are resolved in accordance with clause 32—Dispute resolution.
<p>Clause 9.5(b) provides that the Company will provide an Employee with one week's notice of any change to the Employee's place on a roster, unless otherwise agreed with the Employee.</p>	<p>Clause 15.5 provides that the employer may change an employee's place on the roster with one week's notice. Where less than one week's notice is given, the employee is paid at overtime rates for all work from the time of change of shift until the one week's notice referred to in clause 15.5(a) would have expired.</p>
<p>Under 9.6 of the Proposed Agreement, Employees are entitled to meal and rest breaks up to a total of 30 minutes for each 5 hours worked.</p>	<p>Clause 16.1 provides an employee is entitled to a meal break of 30 minutes without deduction from pay for each 5 hours worked during rostered hours.</p>
<p>Clause 10 provides that the Company's operations are continuous (24/7, across a full year) and the Company will ensure that there will be two non-working public holidays per year included in the roster of each</p>	<p>Clause 29.5 provides that each year, (other than for employees working shifts of up to 8.5 ordinary hours on weekdays), the employer will nominate two holidays which will not be worked.</p>

<p>employee.</p> <p>The proposed Agreement makes it clear, that if it is approved, these days may be different for each employee.</p>	
<p>Leave in advance is available in shut down situations</p>	<p>The award provides for a general leave in advance clause, if the Employer and Employee agree (as well as a specific leave in advance provision for shutdown situations).</p>
<p>Individual flexibility arrangements provided for in clause 23 of the EA are consistent with the model term for term for EAs.</p>	<p>Individual flexibility arrangements provided for in clause 5 of the Award are consistent with the term for awards.</p>
<p>Clause 21 provides for circumstances during which the Company can stand aside or stand-down Employees with or without pay.</p>	<p>The award has rights to withhold pay where an employee does not undertake work or training as the employer reasonably requires.</p> <p>Section 524 of the Fair Work Act applies to stand down arrangements.</p>
<p>Clause 22 sets out the EA procedures to be followed in the event of a dispute before a matter gets to the Commission for conciliation.</p>	<p>Clause 32 sets out the different award procedures to be followed in the event of a dispute before a matter gets to the Commission for conciliation.</p>
<p>Clauses 6.3 to 6.5 provide Employees are employed to work at deployments within a hub as directed by the Company from time to time and sets out conditions on changing hubs.</p> <p><u>Under the proposed Agreement, if a need for work at one mining operation in the hub is coming to an end, and the Company can provide work at another mining operation in the hub, the Company can move you to where it has work in the hub and if this occurs your employment is not terminated at the initiative of the Company. In these circumstances it is the Company's position that no redundancy pay would be payable if you decide to end your employment rather than continue your employment with the Company in the other location.</u></p> <p>The proposed Agreement also provides that Company is not liable for the redundancy payment if the Company would not have been required to make a payment to the Employee under the relevant modern award as amended from time to time.</p>	<p>Clause 34.2 provides that an employee is made redundant where an employee's employment is terminated at the employer's initiative.</p> <p>Clause 34.5 provides that an employer is not liable for the payment in clauses 34.3 and 34.4 if the employer obtains, or causes to be made available for the employee, work:</p> <ul style="list-style-type: none"> (a) that the employee is competent to perform; (b) in a position that carries the same or a higher classification rate of pay than the employee's previous position; (c) that can reasonably be regarded as permanent; and (d) allows the employee to reside in the same general locality as the employee's previous residence.