

From: Andrew Thomas [mailto:athomas@cfmeu.com.au]
Sent: Friday, 17 June 2016 8:54 AM
To: AMOD
Cc: brent.ferguson@aigroup.asn.au; Ruchi Bhatt; Trent.Sebbens@ashurst.com
Subject: Correction/Clarification to Supplementary/Further Submission, dated 16 June 2016 by CFMEU on Modern Award Review of Black Coal Mining Industry Award

Dear Sir/Madam

On 16 June 2016, the CFMEU filed a further or supplementary submission on the Review of the Black Coal Mining Industry Award.

There is a need to correct a point and clarify another in that submission.

Firstly, in the third paragraph on page 2, the submission states that where in our submission of 3 December 2015 we say the current award provision (sub clause 22.2) applies to overtime worked "during hours as defined as an afternoon or night shift" it was incorrect and contrary to the position in sub clause 14.3 in paragraph 5 of our 3 December 2015 submission. Upon further examination, we correct that position and say that such overtime is not contrary to the current award provision or clause 14.3 in the 3 December 2015 submission, but rather that the award provision and sub clause 14.3 in the 3 December 2015 submission cover more than simply that period of time. To be more accurate, and as identified in the submission, the position is that both the current award and sub clause 14.3 in the 3 December 2015 submission refer to overtime as "all time worked in excess of or outside the ordinary hours" and in this case the ordinary hours being worked by 6 day roster employees or 7 day roster employees on an afternoon or rotating or permanent night shift (including on public holidays on any of those shifts). Whilst this includes overtime worked "during hours as defined as an afternoon or night shift", the overtime covered by the current award and sub clause 14.3 in the 3 December submission is much wider than simply overtime worked during hours as defined as an afternoon or night shift. Accordingly the proper position is that whilst the current award and sub clause 14.3 in the December 2015 submission does cover overtime worked during hours as defined as afternoon and night shift, the coverage is much broader than that, being "all time in excess of or outside the ordinary hours".

Secondly, and again on the issue of overtime, in the last paragraph on page 2 (which goes over to page 3), the reference to "it" in the fourth line on page 2 is a reference to the payment of overtime plus the applicable shift allowance (with is reflected in the republished exposure draft and sub clause 14.3 in the 3 December 2015 submission as a percentage of the minimum hourly rate). The point being made here is that the definition of overtime as "all time worked in excess of or outside the ordinary hours" covers the periods of overtime as identified in that paragraph.

I apologise for not making this position clearer in the first place, however, it is important that we identify and correct any errors where inadvertently made so that our position is clear to the relevant parties.

I would be grateful if you could pass this correspondence on to the relevant FWC member/s and post it on the web site.

Yours Sincerely

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