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**Sent:** Monday, 9 August 2021 8:23 PM

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**Subject:** Re: AM2020/25 - Black Coal Mining Industry Award - Further Amendments to Agreed Drafting

Dear Mr Halstead,

I refer to the above matter. The parties have been conferring over the last week in part in response to matters raised by the Commission regarding the previously proposed consent drafting and I can report that I understand the following matters to be agreed.

#### **Reference to Casual Hourly Minimum Rate in Tables in C.1.4 and D.1.4**

The references in the draft tables to % of casual minimum hourly rate should read % of minimum hourly rate on the basis that casual employees are dealt with elsewhere, not in the table.

#### **Reference to cl.21.2(b)(iii) in C.1.3 and D.1.3**

The notes at the bottom of C.1.3 and D.1.3 should be amended to remove the reference to clause cl. 21.2(b)(iii) on the basis that the subparagraph is not proposed to be included in the new drafting. The categories of workers subject to the differential treatment is not proposed to be changed, however, the drafting now includes both of the relevant categories as regular weekend workers in cl.21.2(b)(ii).

#### **Changes to Clause 21.2**

Several issues have been identified with the previously advanced draft, including an inadvertent omission of the applicable rates, a possible need to confirm the relationship between cl.21.2(b)(i) and clause 21.3, a note concerning the treatment of casual employees and a grammatical issue.

After discussions between the parties, the agreed changes are provided below in red:

#### **Clause 21.2**

(a) ...

(b) **Subject to 21.3, All** time worked in excess of or outside the ordinary hours of any shift by employees:

(i) who are six day roster employees or seven day roster employees; or

(ii) **who are regular weekend workers**, meaning employees:

a. who work a roster which requires ordinary shifts on public holidays and not less than 272 ordinary hours per year on Sundays; or

b. who work a roster which requires ordinary shifts on Saturday and Sunday where the majority of the rostered hours on the Saturday or Sunday shifts fall between midnight Friday and midnight Sunday;

**will be paid for at the rate of 200% of the minimum hourly rate, except on public holidays where the rate is 300% of the minimum hourly rate.**

Note: - Where clause 21.2 refers to a rate as being calculated as a percentage of the minimum hourly rate, that reference will (for a casual employee) instead be taken to be a reference to the casual minimum hourly rate where applicable.

## Changes to C.1.5

The reference to cl 21.2(b) in the heading to C.1.5 is more accurately a reference to 21.2(b)(ii) and should be amended accordingly. Similarly the heading would more accurately refer to “Regular Weekend Workers”, rather than simply Weekend Workers, reflecting the substantive content of the rates contained in the table.

The table should also include a reference to the casual minimum hourly rate.

To assist, I have included the agreed changes in red below:

### C.1.5 **Regular** Weekend workers (pursuant to clause 21.2(b)(ii)) – Overtime Rates

	<b>% of minimum hourly rate or for casual employees, the casual minimum hourly rate</b>
Overtime worked on a Public Holiday	300%
All other overtime	200%

If I can be of assistance with respect to clarifying any of the above matters, please do not hesitate to contact me.

Kind regards,

**Alister Kentish**

National Legal Officer

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