

## FAIR WORK COMMISSION

### ***Four yearly review of modern awards – Annual leave*** **AM2014/47**

#### **Submissions - Coal Mining Industry Employer Group**

1. These submissions are made for the Coal Mining Industry Employer Group (**CMIEG**) in respect of the provisional views expressed by the Full Bench in its Decision issued on 27 March 2017 ([2017] FWCFB 959) at [34]-[38].
2. The CMIEG made submissions filed on 20 January 2017, in support of amendments to clause 25.10 – "Shutdown" of the Black Coal Mining Industry Award 2010 (**BCMI Award**). For the reasons set out in those submissions, subject to the comments below, the CMIEG similarly supports the revised clause as set out at [34] of the Decision, being inserted into the BCMI Award.
3. The CMIEG makes the following submission in respect of the revised shutdown clause set out at [34] of the Decision:
  - (a) In respect of paragraph (b), the clause provides for "one month's notice". For clarity, instead of that phrase, it would be preferred if "28 days' notice" or "four weeks' notice" was used. It would also be preferred if the period of notice could be a shorter period if agreed between the employer and the employees affected. This would avoid the provision being potentially frustrated in its operation due to insufficient notice being provided, in circumstances where the affected employees would have otherwise agreed to a shorter period of notice. It is proposed the paragraph read as follows:

"(b) The employer must give the affected employees ~~one month's~~ 28 days' written notice of a temporary shutdown period, or such shorter period as agreed between the employer and the employees affected.
  - (b) In respect of paragraph (c), the clause provides for "immediate" written notice to be given to employees engaged after the notice is given under paragraph (b). For clarity, it is suggested that this word be replaced by the words or "as soon as reasonably practicable after being engaged" or "upon engagement".

#### **Ashurst Australia** **Solicitors for the CMIEG**

11 April 2017

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