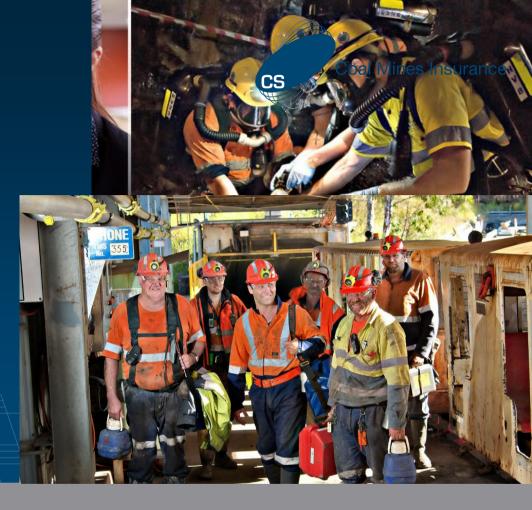
Wage Calculations and Entitlements

Partnering with industry on prevention, recovery and return to work



Presented by

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In this session





Determining which legislation applies to a worker

Understanding Accident Pay

Employer Requirements



Determining which legislation applies to a worker

Employer in Industry v Coal Miner

Employer in Industry

The *Coal Industry Amendment Bill 2018* was passed in the NSW Parliament on 16 May 2018. This change to *Coal Industry Act 2001* was intended to restore the original intention of the Act to ensure that all coal industry workers are required to be insured under the Coal Mines Insurance scheme.

Coal Miner

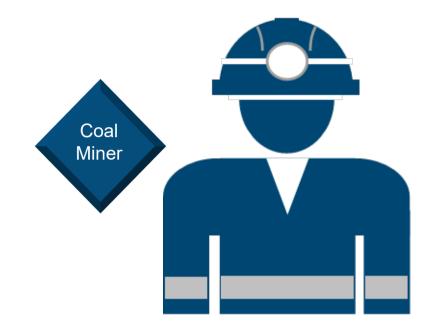
It is our role to determine whether a worker is a coal miner (or noncoal miner) for **legislative purposes**.

Coal Mines Insurance has coverage of employers that do not exclusively employ 'coal miners'.



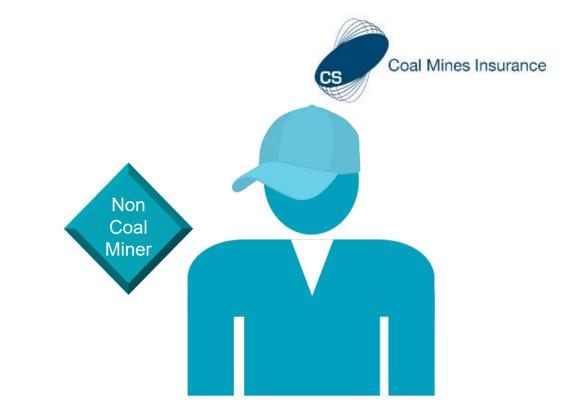


Coal Miner v Non Coal Miner



A worker employed in or about a coal mine, permanently works on a mining lease and is integral to mining operations.

Undertaking work activities where only part of their time involves work on a coal mine site and/or may undertake work that does not directly relate to the mining of coal



A worker who is **not** employed in or about a coal mine.

A worker whose job classification is not covered by the BCMIA.

Paid in accordance with the legislation applicable to the NSW general workers compensation scheme

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Scenario examples



Question 1	A production worker injures their back at an open cut mine while operating a dozer, how would they be classified?							
Answer	They would be classified as a coal miner.							
Question 2	How would a cleaner who only cleans offices and buildings on a coal mine site (nowhere else), be classified for legislation purposes?							
Answer	They would be classified as a coal miner and entitled to coal mining legislation. However they would entitlements would be as per the applicable industrial instrument/award							
Question 3	How would we classify a tyre fitter that always works 80% of the time on a coal mine site, is injured at a coal mine but is covered under the Vehicle, Repair and Services award?							
Answer	They would be classified as a coal miner and entitled to coal mining legislation. However they would entitlements would be as per the applicable industrial instrument/award							

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Determining benefits of a worker paid under legislation applicable to Coal Miners

Payment of weekly benefits for coal miners in NSW is the blending of two areas of worker entitlements



Federal Government (NES,Fairwork Australia)



State Government (Legislation, SIRA)

Payment Pyramid: Determining the correct 'Industrial instrument'

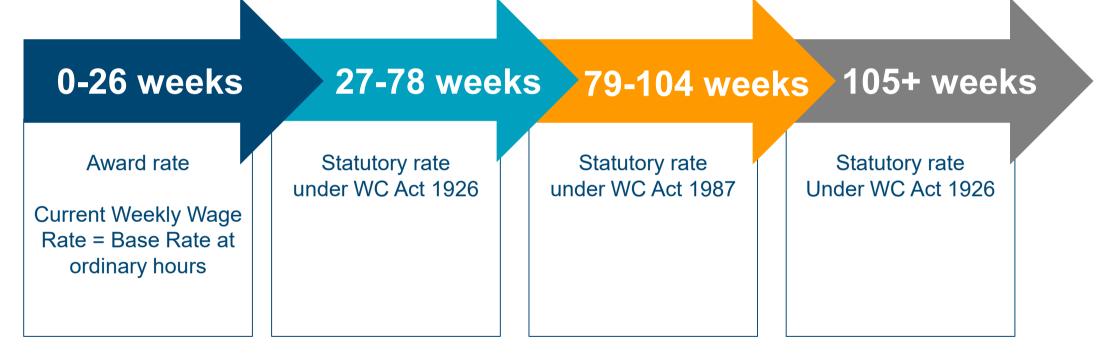




National Employment Standards

Legislative benefits applicable to coal miners





It is important to understand what your employees are entitled to under workers compensation and what Coal Mines Insurance will indemnify

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0 – 26 weeks Current Weekly Wage Rate



Current Weekly Wage Rate (CWWR) – A fixed rate of pay for a week or longer period as set out in a modern award, or enterprise agreement.

Ordinary hours x Base Rate = \$.....

Ordinary hours usually 35 hours for coal miners

Base rate of pay means the rate of pay payable to an employee for their ordinary hours of work, but not including any of the following:

- Loadings
- Monetary allowances
- Overtime or penalty rates
- Any other separately identifiable amounts



Modern Awards



Awards are a legal document that outline the minimum pay rates and conditions of employment of an **Industry.**

The majority of workers within the CMI scheme are covered by three awards:

- 1. Black Coal Mining Industry Award 2010 (BCMIA);
- 2. Manufacturing and Associated Industries and Occupations Award 2010;
- 3. Transport (Cash in Transit) Award 2010.



Modern Awards

Enterprise Agreements (EAs)

Enterprise agreements (EA's) are tailored to meet the needs of particular **enterprise** (or workplace).

Once we are in receipt of a relevant EA, it must be reviewed in order to determine the rate of pay that a worker will receive when being paid workers compensation benefits.

CMI policy terms indemnify employers for bonus payments up to 39 weeks.

CS Coal Mines Insurance

Enterprise Agreements

Individual Agreements (IAs)



Individual contracts are an agreement that covers a **singular** person's terms and conditions of employment

Individual Agreements

Things to consider when determining entitlements:

- Does the IA have an accident pay clause?
- Does the IA state to be read in conjunction with Enterprise Agreements or applicable award?
- Is the worker a high income earner? Do they have a Guarantee of Annual Earnings?
- Does the workplace have an Enterprise Agreement that covers the occupation of the worker?



Accident Pay

CMI Workers Compensation Insurance Policy clause 37:

The insurer will, for the period of a worker's contract, indemnify for the Employer's liability to pay accident pay to a worker covered by the Policy arising from any industrial award order for determination made by Fair Work Australia

What is Accident pay?





Accident Pay is the difference between the worker's legislative entitlement and their entitlements under the applicable award or enterprise agreement for workers compensation.

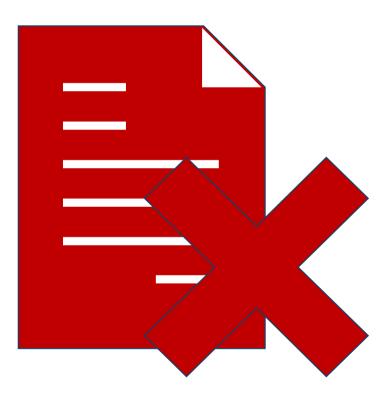
Payments are subject to the terms under the relevant award, enterprise agreement, IA or CMI's extended accident pay policy conditions.

Entitlement will cease after the worker has received **52 or 78 weeks** of accident pay payments subject to the accident pay period described in the Industrial instrument.



Accident pay is **NOT** payable if:

- The worker accepts voluntary redundancy
- The worker resigns or retires
- The worker obtains other paid employment (excluding concurrent employment prior to the injury)
- The worker is on paid annual leave or long service leave
- The worker is not covered by the BCMIA and their industrial instrument does not have accident pay provisions.



Black Coal Mining Industry Award 2010



Period of Incapacity	Legislation	Accident Pay			
0-26 weeks	Ordinary hours (35) at base rate as per Schedule A or B	Any rostered hours above the ordinary hours (35) at base rate.			
27-39 weeks	Stat comp rate (1926 Act Section 9 (1))	The difference between stat comp and the rate paid for rostered hours at base rate.			
40-52 weeks	Stat comp rate (1926 Act Section 9 (1))	The difference between stat comp and the rate paid for ordinary hours at the classification rate as per Schedule A or B			
53-78 weeks	Stat comp rate (1926 Act Section 9 (1))	Date of Injury pre 01/11/2018 - The difference between stat comp and the rate paid for ordinary hours at the classification rate as per Schedule A or B			
		Date of Injury post 01/11/2018 - No entitlement			
79-104 weeks	Stat comp rate (1987 Act Section 37)	No entitlement			
105 weeks +	Stat comp rate (1926 Act Section 9 (1))	No entitlement			

Accident Pay clause examples



For the purposes of this clause *accident pay* means a fortnightly entitlement determined on the following basis:

For an *initial period of 39 weeks* from the date of injury, the *difference between* the *fortnightly amount of compensation* paid to the employee and the employee's *total remuneration at the date of injury*;

For a *further 39 weeks*, the *difference between* the *amount of compensation* paid to the employee and the employee's *Base Salary*. For the purposes of this clause Accident Pay means:

 a) for an initial period of twenty (20) weeks from the date of injury, a weekly payment representing the difference between the amount of compensation paid to the employee by virtue of the said Act and the ordinary weekly rate of pay (as per clause 13.1) plus the weekly bonus amount.

(b) for a further period of thirty eight (38) weeks, a weekly payment representing the difference between the weekly amount of compensation paid to the employee by virtue of the Act and the ordinary weekly rate of pay (as per clause 13.1) plus, rostered overtime, shift allowance, weekend penalty rates and bonus where applicable.

(c) for a further period of twenty (20) weeks, a weekly payment representing the difference between the amount of compensation of the said Act and the ordinary weekly rate of pay (as per clause 13.1) plus the weekly bonus amount.

Extended Accident Pay: Section 37A of Policy Schedule



Covers employees:

- who are not coal mining employees for the purposes of the Award (and therefore not entitled to accident pay under the Award);
- who are coal mining employees but who are "high income employees" (under the *Fair Work Act 2009* and therefore not entitled to accident pay under the Award);
- who are entitled to accident pay under their common law contracts with you as if they were subject to the Award (but who are indeed not subject to the Award); or
- whose common law contracts or enterprise agreements are silent with respect to accident pay, and:
 - you intended that a worker would be entitled to accident pay; or
 - you have been in the practice of paying accident pay, then you are not entitled to indemnity under clause 37 of the standard CMI policy.

These payments are capped at Section 35 Workers Compensation Act 1987.



Determination of Accident Pay Entitlements

Coal Mines Insurance

Considerations for determining the accident pay entitlement of a Production Supervisor and how that applies to the individual employment agreement provided for review:

- Does the agreement contain an accident pay clause? NO
- Did the employer take up the extended accident pay cover with CMI? NO
- Does the agreement contain a 'Guarantee of Annual Earnings' clause? NO
- Does the workplace Enterprise Agreement include the position of Production Supervisor? NO
- Is the occupation Production Supervisor included in the Black Coal Award 2010? YES Group L
- Did the worker contract themselves out of the award? **NO**

Based on this agreement the worker would be paid under the Black Coal Award 2010 – Group L – Production Supervisor - \$1,140.90 per week (35 hour week), including accident pay.



Employer Requirements

Request for Payment Form (RFP)



CS	Coal Mines								R	equest for Payme	nt
	be completed in acco yrefield Colliery Pty Lt			ributed by	Coal Min	CMI to make pa		Work	er 💽 Employ	er 🔘	
Claim number	Worker's name	From date	To date	Days	Hours	Roster	Award Rate	Bonus	Type of compensation	Total	
B123456	John Citizen	30/07/2018	05/08/2018	3	37.5	7 Day Rotating	\$2,170.75	\$540.00	Wages	\$2,710.75	
											_
											_
											Payments cannot be made to
											Payments cannot be made to an industry attached worker
											without a
											Request for Payment form
											request for raymont form

* Please attach a copy of the applicable Enterprise Agreement or Award for the initial payment of workers compensation.

* Claim for loss of earnings must be accompanied by the earnings and attendance records for the periods claimed.

The information on this form is, to the best of my knowledge and belief, correct and relates to an injury which is compensable under the Workers Compensation Act 1987 as amended.

Signed.

Date 06/08/2018

Manager or authorised officer Coal Mines Insurance Pty Limited: ABN 70 000 011 727

https://www.coalservices.com.au/wp-content/uploads/2017/11/Request_for_Payment_Form_Instructions_final_reformatted_SE-1.pdf



Payment direct to worker:

Employers must submit the 'request for payment' form to CMI on the usual payment cycle coinciding with when the employer would make the workers wage payment.

To be submitted to CMI prior to the employers next scheduled payment of wages to the worker

Reimbursement to employer:

In accordance with Part 5 clause 30 of our policy conditions; "Employer to notify Insurer of monies paid The Employer must notify the Insurer of any monies paid by the Employer in relation to claims accepted by the Insurer. Notification is required to be made by the Employer to the Insurer on the last day of each month that the claim remains active, and such notification is to be in accordance with the Insurer's requirements as specified from time to time"

To be submitted to CMI at the end of each calendar month

Employer Obligations: Information required for CMI to determine payments



- Advise which agreement or contract the worker is employed under and please provide a copy.
- Employment type: Is the worker permanent, fixed term contract, casual etc
- □ What is the workers classification? Operator, Fitter, Electrician, Deputy etc
- □ Provide a copy of job description / task analysis for pre-injury role
- □ What roster is the worker normally scheduled to work? Please provide a copy
- □ Which crew is the worker allocated to?
- □ What is the worker's pre-injury shift / hours?
- □ If casual, have they been provided with a future roster?
- □ Does the worker regularly perform overtime?
- Provide a copy of wage and attendance records for 12 months prior to injury. If employed for less then 12 months, provide wage and attendance report for optime work bistory.

than 12 months, provide wage and attendance report for entire work history.

Cessation of payments For workers with an ongoing incapacity

Section 52 (2) of *Workers Compensation Act* 1987 states. If a person:

- a) Receives an injury before reaching the retiring age a weekly payment of compensation shall not be made in respect of any resulting period of incapacity for work occurring after the first anniversary of the date on which that person reaches the retiring age, or
- b) Receives an injury on or after reaching the retiring age a weekly payment of compensation shall not be made in respect of any resulting period of incapacity for work occurring after the first anniversary of the date on which the injury happened.





 Accident Pay is subject to the terms under the relevant award, EA or IA and will cease after either 52 or 78 weeks.

- Enterprise agreements (EA's) are tailored to meet the needs of particular enterprise (or workplace).
- CMI policy terms indemnify employers for bonus payments up to 39 weeks.
- Request for Payment form is required on the last day of each month when reimbursing employer or on the usual payment cycle when CMI is paying worker.

Contact your Account Manager or call 1800 WORKER for further information





Summary



