

1 December 2009

The Honourable Justice G M Giudice
President
Australian Industrial Relations Commission
Level 4
11 Exhibition Street
MELBOURNE VIC 3000

Dear President

Re: Mining Industry Award 2010 and Labour Hire model clauses

On 17 November 2009, the Commission issued a Statement concerning labour hire provisions in modern award ([2009] AIRCFB 925).

The statement discussed the need for each modern award to contain provisions to cover labour hire in lieu of a separate award. The Commission published model clauses and invited comment.

The Commission noted that the *Mining Industry Award 2010* (the award) already contained relevant provisions and stated that unless it was requested to do so the Commission would not contemplate making any variation to this award. The statement also suggests that the model Group Training provisions should be inserted into modern awards

As identified by the full bench, the coverage clause of the Mining Industry Award 2010 specifically includes coverage of temporary labour services.

Clause 4 provides that the award will cover employers who are engaged in the mining industry, in respect of work performed by employees engaged in classifications contained in the award.

Clause 4.1 defines the mining industry and includes at subparagraph (f);

'the provision of temporary labour services used in the activities set out in clauses 4.1(a) to (e) by temporary labour personnel principally engaged to perform work at a location where the activities described above are being performed.'

The award contemplates coverage of school based apprentices in Schedule B, and apprentices and trainees at Clause 13.4.

AMMA contends that it is not appropriate for the model Labour hire/on-hire provision to be included in the Mining Industry Award 2010 award as this matter had been dealt with in the making of the award.

AMMA contends that it would be appropriate to include following provision with respect to Group Training as follows;

“This award covers employers which provide group training or related temporary employment services for apprentices and/or trainees engaged in any of the industries and/or parts of industry set out at clause 4 and those apprentices and/or trainees engaged by a group training or related temporary employment service hosted by a company to perform work at a location where the activities described herein are being performed.”

Regards

A handwritten signature in blue ink, appearing to read 'C. Platt', with a long horizontal flourish extending to the left.

Christopher Platt
Chief Operating Officer