

## ***Background - Campaign to retain existing workplace flexibilities in new mining award***

In the lead up to the 2007 election the ALP released its Forward with Fairness policy, proposing to abolish AWA's and roll-back many of the hard won flexibilities the industry and its employees had enjoyed for many years. AMMA was the most vocal of any employer association, continually pushing the ALP to amend its policy so the resources sector could continue its existing successful workplace arrangements.

Since the election of the new Government, AMMA has lobbied extensively to extract a range of concessions from the Government with respect to maintaining these arrangements:

These concessions include;

- The continuation of existing workplace agreements
- Continued access to Union Greenfield Agreements without the need for prior notification
- Flexible working arrangements via moderns awards and individual flexibility agreements
- The exemption of high income earners from awards
- The introduction of individual flexibility agreements
- The commitment to allow existing collective agreements to operate;
- The commitment to retain existing roster patterns and working arrangements.

At an early stage AMMA identified the modern award making process as one of the key steps towards a flexible industrial relations system in the absence of AWAs and nominated the mining industry as a priority award in order to drive the process.

Whilst much of the content of the exposure draft of the Mining Industry Award was greeted positively by the sector, the final award was not as flexible as the exposure draft and did not allow mining industry employers access to work 12 hour shifts without first obtaining employee consent. In addition the annual leave arrangements did not allow employers using compressed rosters to incorporate annual leave into the roster.

AMMA commenced a strategic campaign designed to secure further changes to the award conditions on behalf of the sector, utilising well-placed media comment and various other tactics to ensure the industry could retain existing roster patterns and working arrangements.

On 17 March 2009 AMMA wrote to the Deputy Prime Minister reminding her of the commitment to allow existing roster arrangements to continue. The letter also raised concerns about the lack of flexibility to work 12 hours shifts as well as the restrictions to incorporating annual leave into rosters under the Modern Mining Award. These issues also had potential to adversely impact on the modern Hydrocarbons (Upstream) Award.

AMMA proposed a number of solutions including amending the Award Modernisation Request which is a mechanism for the Government to guide the AIRC in how particular award modernisation matters are dealt with, including the continuance of historically accepted roster patterns.

On 23 March 2009 AMMA again wrote to the Deputy Prime Minister reiterating its position on the failure of award modernisation to allow the working of existing roster patterns by preventing access to 12 hour ordinary time shifts and failing to provide flexible annual leave arrangements.

In addition to written submissions and appearances before a Senate Inquiry, AMMA has also with met with the Deputy Prime Minister and DEEWR officials on a number of occasions to highlight problems that would arise in the industry in the event flexible roster patterns and annual leave arrangement could not be maintained under the proposed arrangements.

On Friday 8 May 2008, the Government issued a revised award modernisation request. Para 33AA of the request requests that the AIRC when modernising awards;

*“Where a modern award covers work performed in remote locations, the Commission should include terms that permit the roster arrangements and working hours presently operating in practice in those locations to continue after the making of the modern award”*

In a letter to the President of the AIRC that accompanied the request the DPM said, *“The request now provides that the Commission should include terms in modern awards that, as far as possible, allow the continuation of roster arrangements and working hours presently in practice for work undertaken in remote locations. For example, the Mining Industry Award 2010 allows a majority of employees to agree with their employer to work shifts of 12 ordinary hours. If the Commission is satisfied that most employees currently work these arrangements within the industry, or part of the industry, then the modern award should provide for shifts of 12 ordinary hours to ensure award modernisation reflects established work practices.”*

On the topic of annual leave the letter continued, *“...where the modern award covers remote work, the Commission may include terms providing that an employer may reasonably require employees who work on a roster to take*

*annual leave in a manner that fits in with the roster. Where employees in remote areas work even-time rostering arrangements which include annual leave, the Commission should facilitate the retention of these arrangements.”*

Subject to providing evidence of these arrangements to the satisfaction of the AIRC, AMMA believes that the working arrangements in the Mining Industry Award should meet the Government’s commitment to retaining existing working arrangements under modern awards.

AMMA will continue to work with members and Government to ensure that the workplace relations needs of members are pursued to ensure that we can continue to compete in the global resource market.

AMMA thanks its members for their continued support in these endeavours.