

EA Employee Q&A CMSH Act Duties Restructure



General Q&A

1. What changes are occurring at BMA mines?

The State Government recently passed the *Minerals and Energy Resources and other Legislation Amendment Act 2020 (Qld) (MERLA Act)*. The MERLA Act made changes to the *Coal Mining Safety and Healthy Act 1999 (Qld) (CMSH Act)*.

These changes include requiring the Coal Mine Operator (CMO) to ensure that persons who carry out certain safety and health responsibilities and duties prescribed under the CMSH Act (CMSH Act duties) are only appointed if they are employees of the CMO.

The CMO for BMA mines is BM Alliance Coal Operations Pty Ltd and BHP Coal Pty Ltd is the employer of employees who are covered by the *BMA Enterprise Agreement 2018 (BMA EA 2018)*.

The CMO has decided and advised BHP Coal Pty Ltd how it will implement the changes required by the State Government and the MERLA Act. It has also decided on the employment arrangements it will use.

As a result of the decisions by the State Government and the CMO, BHP Coal Pty Ltd has determined that from 19 November 2021, BHP Coal will no longer employ persons performing CMSH Act duties.

2. What is the change made by the CMO?

The CMO will become the employer of all employees performing CMSH Act duties. These changes must be completed by the CMO no later than 19 November 2021.

This includes any person performing duties of an Open Cut Examiner.

As part of these changes the CMO has decided to create a new staff position – the Open Cut Overseer (OCO) – which will perform the statutory OCE duties.

The decision also affects employees, contractors and labour hire workers who are currently performing CMSH Act duties as part of another role such as Superintendents, Shift Compliance Coordinators and some managers.

3. Why is the CMO making this change?

To comply with the State Government's changes to the CMSH Act, the CMO must employ all persons who perform CMSH Act duties.

This means that all persons performing these duties will by 19 November 2021 be employed by the CMO instead of BHP Coal Pty Ltd.

Additionally, the CMO has created the new OCO role to:

- Increase safety outcomes;

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1. Build a new talent pipeline;
2. Assist the asset to attract and retain new skill;
3. Create new opportunities to develop and grow;
4. Create consistency across the asset for statutory safety accountabilities.

4. When will these changes come into effect?

The CMO is required to employ all persons performing CMSH Act duties across the assets to the CMO (BM Alliance Coal Operations Pty Ltd) by 19 November 2021.

It is anticipated that the transition to OCO employment will commence by the end of July 2021 and be completed by 19 November 2021.

The CMO will not reduce the number of persons performing CMSH Act duties at each site.

5. What is the result of the changes on EA employees of BHP Coal Pty Ltd?

As a result of the change to the legislation, from 19 November 2021 BHP Coal Pty Ltd can no longer employ or require employees to perform CMSH Act duties, including OCE duties.

BHP Coal Pty Ltd will be consulting with affected employees and their representatives about the effects of this change and how it will mitigate the effects of this change.

There will be no redundancies of EA employees.

Employees of BHP Coal Pty Ltd who are currently performing OCE duties may express their interest to do one or more of the following:

- Apply for the new OCO role.
- Transfer their employment to the CMO on their existing terms and conditions. Employees who elect to do so will continue to perform OCE duties from time to time but will be trained and upskilled to perform other duties (e.g. operate equipment); or
- Remain employed by BHP Coal Pty Ltd on their existing terms and conditions and receive additional training as required to perform other duties on site as a mine employee.

BHP Coal Pty Ltd will hold separate discussions with EA employees currently performing OCE duties to seek thoughts, ideas and suggestions on individual circumstances and options available.

6. Will there be redundancies?

No. There will be no redundancies of EA employees as a result of this decision.

7. What will happen to EA employees who are currently studying to obtain their Open Cut Examiner's certificate of competency?

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BHP Coal Pty Ltd will continue training arrangements for EA employees who are currently studying to obtain their open cut examiner's certificate of competency. Arrangements will be made to ensure that EA employees receive coaching from OCOs.

Open Cut Overseer (OCO) Q&As

8. Why has the CMO created the new OCO role for OCE duties?

The CMO has created this new role to:

- Increase safety outcomes;
- Build a new talent pipeline;
- Assist the asset to attract and retain new skills;
- Create new opportunities to develop and grow;
- Create consistency across the asset for statutory safety accountabilities.

9. Who will the OCO report to?

The SSE will determine CSMH Act and other reporting lines.

10. What are the terms and conditions of the new OCO roles?

The CMO will employ OCOs as staff employees under Schedule B of the *Black Coal Mining Industry Award 2010* with their terms and conditions to be contained in their employment contract.

11. Will my salary or roster change if I am successful in obtaining an OCO role?

For EA employees currently performing OCE duties who are successful in securing an OCO position with the CMO, you will be provided with new terms and conditions by the CMO to reflect the duties and responsibilities of the new role.

Rosters for the OCO roles will be determined by the CMO as the employer, depending on its needs. If you have any feedback regarding roster arrangements we encourage you to discuss this with your Line Leader.

12. If I am successful in obtaining a role as an OCO in the CMO, what will happen to my continuity of service?

Your accrued entitlements, including continuity of service and accrued leave entitlements, will transfer with you into the new OCO role.

13. How does this impact my accommodation or other benefits?

The CMO will provide accommodation and benefits equivalent to the role to which you are appointed

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If you remain employed with BHP Coal Pty Ltd your arrangements under the current Accommodation Agreement will continue to apply.

14. Does this affect my job share arrangement?

The CMO has advised it will look to accommodate job share arrangements wherever possible. Employees who are transferring to the CMO and who wish to continue their job share arrangement should discuss this with their Line Leader and who will put this forward for consideration by the CMO.

15. What will happen to my novated lease if I transfer into the CMO?

The CMO is now registered for novated leasing. You will continue to be able to access these services as normal.

16. I am an EA employee currently performing OCE duties – do I automatically become an OCO?

No, the CMO is providing all persons holding current OCE qualifications employed by BHP Coal Pty Ltd with the opportunity to express interest in the new OCO roles.

Employees who submit an expression of interest for an OCO role will be subject to the CMO's capability assessment and recruitment process to determine whether they meet the requirements of the new OCO role.

17. Where can I get information on the OCO role and what is the recruitment process for OCO roles?

The CMO is providing all employees with an OCE certificate of competency with the opportunity to submit an expression of interest in the new OCO roles.

Any employees who are interested in applying for an OCO role will be subject to the CMO's capability assessment and recruitment process to determine whether they fit the profile of the new OCO role.

To submit an expression of interest to the CMO for the OCO position, please complete the EOI form by 1700 Friday, 9 April 2021.

You can access the EOI form on your personal mobile device by scanning the QR code below:

Scan here to apply
for this opportunity



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BHP Mitsubishi Alliance

The CMO is also inviting contractors and labour hire workers with OCE certificates of competency to apply for the new OCO positions via the BHP careers portal.

18. Who can apply for the OCO roles?

Anyone who currently holds an OCE certificate of competency will be eligible to apply for an OCO role, whether working on a BMA mine or elsewhere

19. If I submit an expression of interest in the OCO role, when will I find out if I am successful?

The CMO will advise employees who have expressed interest in the OCO role as early as possible but the CMO anticipates employees will be notified of their outcome in July 2021.

20. Will BHP Coal Pty Ltd be removing my OCE appointment onsite if I am unsuccessful in appointment to any role with the CMO?

That will be a decision of the SSE. But BHP Coal Pty Ltd cannot allow you to perform OCE duties from 19 November 2021 if you are unsuccessful in an appointment to any role with the CMO.

21. Does clause 8.2 in the BMA EA 2018 apply to the EOI process?

No. The OCO role is not a position employed by BHP Coal Pty Ltd.

The OCO roles do not fall within the scope of the BMA EA 2018 and as such the recruitment process within clause 8.2 does not apply to the CMO.

22. I have an IFA, what will happen to my conditions on my IFA?

If you submit an expression of interest to the CMO for an OCO role and you are successful in obtaining that role, the CMO will offer you new terms and conditions of employment and your IFA will no longer apply.

If you elect to transfer your employment to the CMO so as to enable you to continue to perform OCE duties from time to time, you will remain on your current terms and conditions and should discuss changes to your individual flexibility arrangement with the CMO.

23. Can I just return to a Production Operator role now?

If you do not wish to apply for the OCO role or transfer with your existing terms and conditions to the CMO, you should speak to your Line Leader about alternative options.

Employees who elect to remain employed by BHP Coal Pty Ltd will remain on their current terms and conditions of employment but may be required to change rosters/crews depending on the requirements of site.