



Everybody Out

PUBLIC TRANSPORT
INDUSTRIAL RELATIONS NEWS

Australian Public Transport Industrial Association

Industrial arm of the Bus Industry Confederation

Information contained within this Edition is developed within the Bus and Coach Industry. It is not intended that the information should be relied upon without the reader first seeking their own expert advice.

Welcome to the December 2017 edition of Everybody Out

- ▶ Members News
- ▶ The events that dominated IR in 2017
- ▶ The important election in 2017



Wayne Patch
Chairperson, APTIA



Members News

- The Year in Review

The Year in Review

>> The National Industrial Relations Seminars



On 28 and 29 November 2017 I held the first annual national industrial relations seminar at the Melbourne Convention Centre in Melbourne. The seminar was headlined by the then Deputy Prime Minister, Tony Abbott, and the then Minister for Industry and Innovation, Ian Drayton. The seminar was a great success and I am pleased to have been able to bring together industry leaders and government officials to discuss the future of the industry.

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>> APTIA Industrial Relations Breakfasts



I would like to thank the attendees of the breakfast meeting held on 14th June 2017. The theme of the breakfast was 'The Future of Public Transport' and the speakers included representatives from the Australian Public Transport Industrial Association, the Bus Industry Confederation and the International Brotherhood of Transport Workers. The breakfast was a great success and we look forward to future events.

>> The Conferences



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Industry News that dominated IR in 2017

- Wages Growth
- The Four Yearly Review of Modern Awards
- Industrial Relations Legislation

Wages Growth

Wages growth in the public transport industry was strong in 2017. The average increase in wages was 2.2% for the year, compared to 2.7% in 2016. This was driven by the award review process, with many awards being updated for the first time in several years. The increase in wages was particularly significant for casual employees, who saw an average increase of 3.5%.

The increase in wages was also reflected in the cost of living index, which rose by 1.8% in 2017. This was a significant increase, particularly for public transport workers, who are often on fixed incomes. The increase in wages was also a result of the strong performance of the public transport industry, which saw a record number of passengers in 2017.

The Four Yearly Review of Modern Awards

The four yearly review of modern awards was completed in 2017. The review resulted in a number of awards being updated, including the award for public transport workers. The award for public transport workers was updated to reflect the changes in the industry, including the introduction of new roles and the need for higher wages. The award also included provisions for casual employees, which was a significant improvement on the previous award.

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"A casual employee engaged solely for the purpose of transportation of school children to and from school may be rostered to perform one engagement or two separate engagements per day, with a minimum payment of two hours for each separate engagement."

The award for public transport workers also included provisions for casual employees, which was a significant improvement on the previous award. The award also included provisions for casual employees, which was a significant improvement on the previous award.



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Industrial Relations Legislation

On 1 October 2017, the Industrial Relations Act 1988 (IRA) was replaced by the Industrial Relations Act 2017 (IRA 2017). The IRA 2017 is a significant piece of legislation that will have a major impact on the industrial relations landscape in Australia.

The IRA 2017 introduces a number of changes, including the abolition of the Australian Industrial Relations Commission (AIRC) and the creation of the Australian Industrial Relations Tribunal (AIRT). The AIRT will be responsible for resolving industrial disputes and enforcing industrial instruments.

The IRA 2017 also introduces a number of changes to the law of unfair dismissal. The new law will allow employees to bring a claim for unfair dismissal to the AIRT, rather than to the AIRC. The new law will also allow employees to bring a claim for unfair dismissal to the AIRT, rather than to the AIRC.

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The Important Decisions in 2017

- It is not an adverse action to change a casual employee's roster
- Protected action refused to TWU as not genuinely negotiating
- Covert video surveillance illegal
- The BOOT is not a line by line test/ Undertakings must be exact
- When are you required to convert a casual?

It is not adverse action to change a casual employee's roster

Cross v Harbour City Ferries Pty Ltd t/as Harbour City Ferries & Ors [2017] FCCA 514 (24 March 2017)

On 14 February 2017, the applicant, Mr Cross, was employed by the respondent, Harbour City Ferries Pty Ltd t/as Harbour City Ferries & Ors (HCF), as a casual employee. Mr Cross was employed on a roster of 12 hours per week, which included a 4-hour shift on the 1st of each month. On 14 February 2017, HCF changed Mr Cross's roster to 10 hours per week, which included a 4-hour shift on the 1st of each month. Mr Cross claimed that this change was an adverse action taken against him because it was a change to his terms and conditions of employment.

Mr Cross claimed that the change to his roster was an adverse action taken against him because it was a change to his terms and conditions of employment. He claimed that the change was a change to his terms and conditions of employment because it was a change to his roster of work hours.

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He noted that the association's representatives had agreed to the conditions that the union had set out in its demand for a new enterprise agreement. In the past, the union had demanded that the enterprise agreement be based on the principle of no work without pay, which the union argued was a fundamental principle of industrial relations.

He also noted that the union had agreed to the conditions that the association had set out in its demand for a new enterprise agreement. The union had agreed to the conditions that the association had set out in its demand for a new enterprise agreement. The union had agreed to the conditions that the association had set out in its demand for a new enterprise agreement.

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Protected action refused to TWU as not genuinely negotiating

Prosecur Australia Pty Limited T/A Prosecur v Transport Workers' Union of Australia and Mr Michael Standish [2017] FWC 3913 (27 July 2017)'

The applicant, Prosecur Australia Pty Limited, sought an order that the respondent, Transport Workers' Union of Australia (TWU), be restrained from engaging in protected industrial action. The respondent sought an order that the applicant be restrained from engaging in protected industrial action.

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Covert video surveillance illegal

Ms Shahin Tavassoli v Bupa Aged Care Mosman [2017] FWC 3200 (17 July 2017)

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The BOOT is not a line by line test/ Undertakings must be exact

Beechworth Bakery Employee Co Pty Ltd Enterprise Agreement 2016 [2016] FWCA 8862 (9 December 2016)

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When are you required to convert a casual?

Tomvald v Toll Transport Pty Ltd [2017] FCA 1208 (12 October 2017)

In a judgment handed down on 12 October 2017, the Federal Circuit Court of Australia considered the meaning of the term 'casual' in the context of the award for Toll Transport Pty Ltd. The applicant, Tomvald, was employed as a casual driver for Toll Transport Pty Ltd. He claimed that his employment should be converted to permanent full-time employment because he had worked for the respondent for more than 12 months and had worked for it for more than 12 months in a 21-month period. The respondent denied this claim, arguing that the applicant's employment was casual because he was not employed on a permanent basis and his work was irregular and intermittent.

The applicant argued that the respondent's definition of 'casual' was too narrow and that he should be considered a permanent employee. He pointed to the fact that he had worked for the respondent for more than 12 months and that his work was regular and continuous. The respondent argued that the applicant's work was irregular and intermittent, and that he was not employed on a permanent basis. The court found in favor of the applicant, holding that his employment was permanent full-time employment. The court stated that the respondent's definition of 'casual' was too narrow and that it should be interpreted more broadly. The court also found that the applicant's work was regular and continuous, and that he was employed on a permanent basis. Therefore, the court ordered that the applicant's employment be converted to permanent full-time employment.

The court also considered the meaning of the term 'casual' in the context of the award for Toll Transport Pty Ltd. The court found that the award provided that an employee who has worked for an employer for more than 12 months and who has worked for that employer for more than 12 months in a 21-month period is entitled to permanent full-time employment. The court found that the applicant's employment met these criteria and that he was therefore entitled to permanent full-time employment. The court also found that the respondent's definition of 'casual' was too narrow and that it should be interpreted more broadly. The court also found that the applicant's work was regular and continuous, and that he was employed on a permanent basis. Therefore, the court ordered that the applicant's employment be converted to permanent full-time employment.

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Important Dates



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Industrial Working Group Meeting, Canberra ACT



7 10 to e 201

2018 Australasian Bus Conference



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APTIA breakfasts



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Merry Christmas and a prosperous New Year. Thank you once again for your support in a busy 2017.

APTIA will take a break until Monday 15 January 2018 but if needed will be available by email over the break.

Best wishes,
Ian MacDonald
National IR Manager