

Ian MacDonald

Australian Public Transport Industrial Association

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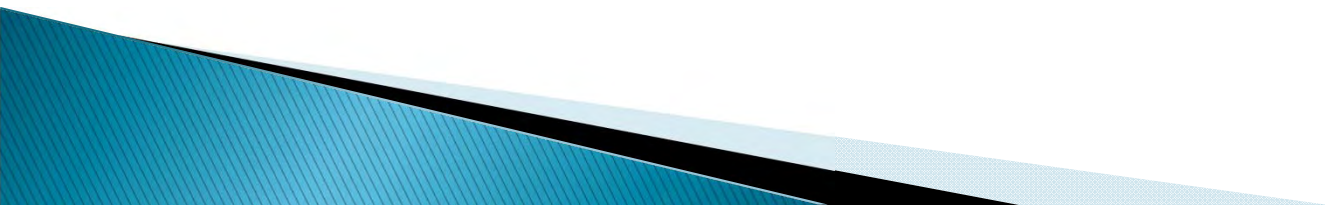


Keeping Up to Date with Industrial Matters

Ian MacDonald, National Industrial Relations Manager

Reasonable Instruction

“It is widely accepted that there is a common law obligation upon employees to obey the lawful and reasonable directions of their employers. In other words the lawful commands of an employer which an employee must obey are those which fall within the scope of the contract of services and are reasonable.” **R V Darling Harbour Stevedoring and Lighterage Co Ltd (1938) 60 CLR 601**



Employees' Obligations

An employee has some strict obligations to their employer and these include the obligation to:

- ▶ Protect the health and safety of other workers and invitees
- ▶ Adhere to reasonable instruction and performance management
- ▶ Not be guilty of wilful and deliberate behavior that is inconsistent with the continuation of the employment contract
- ▶ Refrain from conduct which causes serious or imminent risk to the reputation, viability or profitability of the employer
- ▶ Respect and ensure compliance with employer policies (passenger relations, drug and alcohol mobile phones, incident management)
- ▶ Understand the need to hold a driver's license and driver authority; know what disability discrimination is and be responsible for their own driver fatigue compliance.

These policies will be explained during the driver induction.



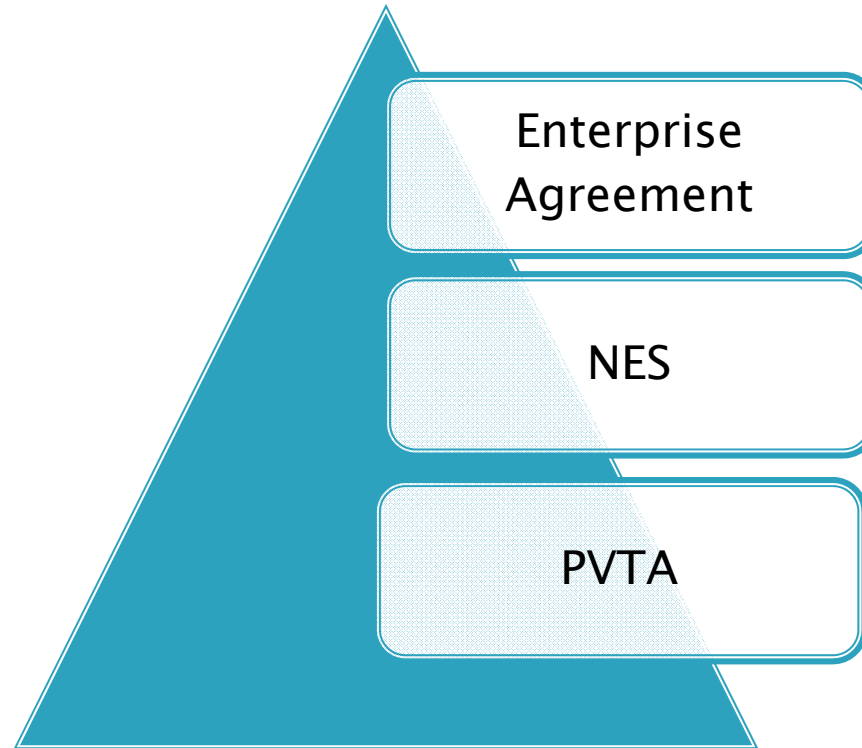
Employees' Rights

An employee has defined rights under the Fair Work Act 2009 and various other assorted pieces of legislation and at common law which protects their civil rights and include the rights:

- ▶ A safe work place
- ▶ To a contract of service
- ▶ To be consulted
- ▶ To the freedom of association
- ▶ Not to be discriminated against
- ▶ Not to be Bullied or harassed
- ▶ Not to be Unfairly dismissed
- ▶ Not to have workplace rights adversely affected (alters their position to their prejudice, injures or discriminates)

These rights are explained in a Fair Work Information Statement provided at the commencement of employment

Contract of Services

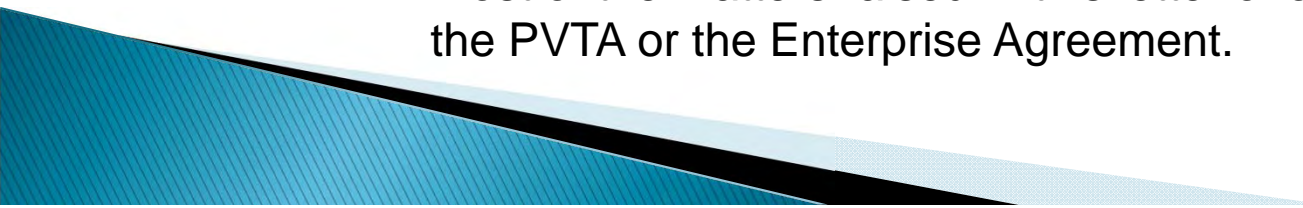


Letter of Offer

An employee will be offered employment which sets out:

- ▶ A job description (To whom you report)
- ▶ Employment status
- ▶ Probation
- ▶ Hours of work
- ▶ Remuneration
- ▶ Leave entitlements
- ▶ Disciplinary process (driver monitoring)
- ▶ Policies (social media, smoking, harassment, drug and alcohol)
- ▶ Special conditions

Most of the matters raised in this letter of offer are also covered in the PVTa or the Enterprise Agreement.



National Employment Standards

An employees' employment is underpinned by the NES and familiarity with them is important. There are ten.

- ▶ Maximum hours for permanent employees
- ▶ Flexible work arrangements (child care, carer, disable, over 55, experiencing violence or caring for)
- ▶ Parental leave
- ▶ Annual leave
- ▶ Personal/ carers' leave
- ▶ Community service leave
- ▶ Long Service Leave
- ▶ Public Holidays
- ▶ Notice on termination and redundancy pay
- ▶ The information statement


Not all of these rights are available to casual employees.



Disciplinary Procedures

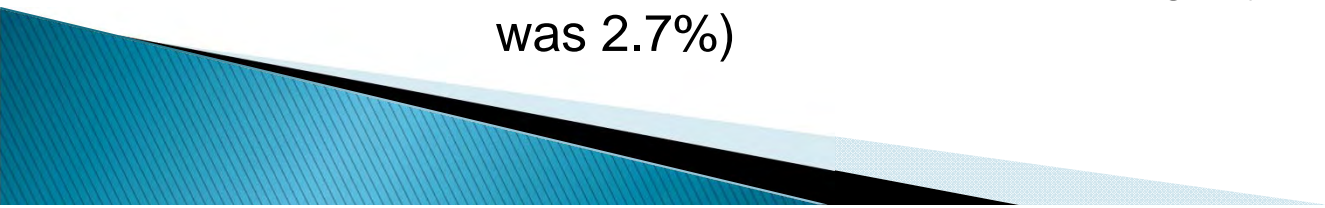
The Disciplinary procedures are designed to provide a fair process whereby an employee can be represented and have any allegations properly put to them and for the employee to be given a chance to respond.

The process should be:

- ▶ Allegation or complaint needs to be verified somehow
 - ▶ The employee is entitled to be assisted at any meeting
 - ▶ Allegations/ complaints need to be put and responded to
 - ▶ More than one meeting may be needed to properly investigate a complaint or allegation
 - ▶ Any action must be properly communicated, preferably in writing
 - ▶ Serious misconduct may lead to instant dismissal
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Rates of Pay

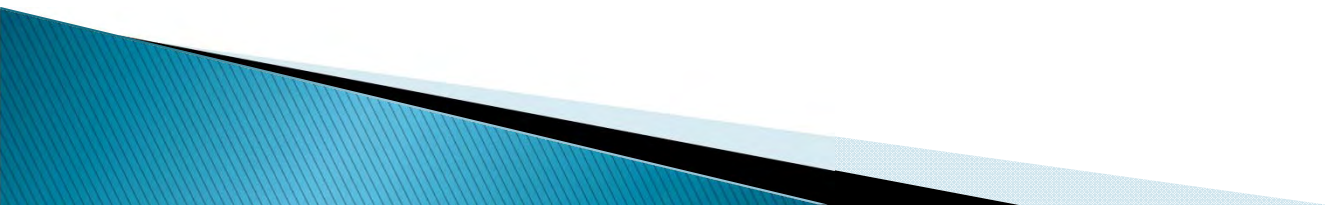
- ▶ The Passenger Vehicle Transportation Award prescribes rates of pay for school bus drivers and route and charter drivers including:
 - Grade 2 = \$18.63 (P); \$23.30 (C)
 - Grade 3 = \$19.71 (P); \$24.63 (C)
 - Grade 4 = \$20.39 (P); \$25.49 (C)

 - ▶ The Wage Price Index has come in at 2.2% for the March quarter whilst the CPI is only 1.3% for the March quarter
 - ▶ The Minimum Wage determination will be available in the first week of June and it is eagerly awaited (last year it was 2.7%)
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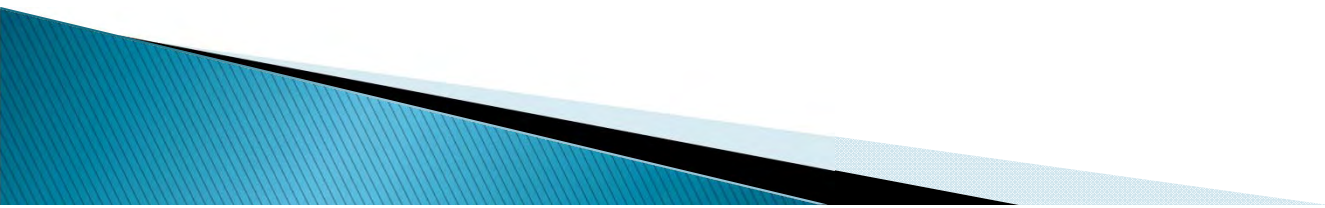
Superannuation

Year	Before	Now
2015	10%	9.5%
2016	10.5%	9.5%
2017	11%	9.5%
2018	11.5%	9.5%
2019	12%	9.5%
2020	12%	9.5%
2021	12%	10%
2022	12%	10.5%
2023	12%	11%
2024	12%	11.5%
2025	12%	12%

The Review of the PVRTA

- ▶ Mandatory casual conversion with an increase in minimum hours to four and existing casuals to be offered extra work
 - ▶ An additional 10 days domestic violence leave with a dedicated domestic violence officer with more flexible work hours
 - ▶ Return to work from parental leave will enable employees to seek lesser hours for up to two years with 'substantial countervailing business grounds' being the only excuse for an employer
 - ▶ APTIA has brought an application which seeks flexibility with minimum hours for school bus drivers whilst the TWU is seeking to limit ordinary hours to hours between 6am and 7pm.
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The Future

- ▶ The Government has two major Bills languishing in the Senate i.e. The Fair Work (Amendment) Bill 2014 and the Fair Work Amendment (Bargaining Process) Bill 2015.
 - ▶ These Bills would make it easier to require productivity savings to become part of the enterprise agreement process and would also limit the right to take protected action only after significant and meaningful negotiation has occurred
 - ▶ The Opposition on the other hand is taking to their national conference this year a new policy setting:
 - ▶ “Decent jobs; with fair pay and conditions” which includes winding back the SGC timetable, providing guidelines for good faith conduct, reaffirming penalty rates and providing an objective test for casual employment.
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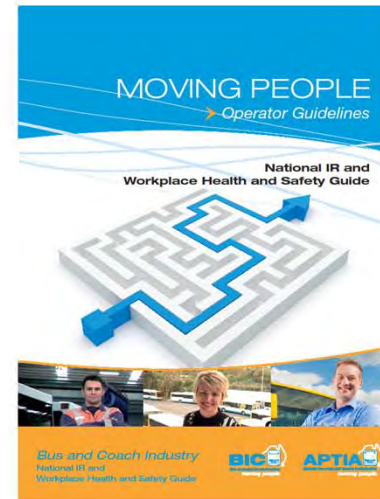
Australian Public Transport Industrial Association

National Industrial Relations Seminar 2015

Hotel Realm Barton ACT
Tuesday March 24, 2015
10.00am to 5.00pm



Australian Public Transport Industrial Association



Contact APTIA



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