

BARGAINING FAQ

PROTECTED INDUSTRIAL ACTION MEMBERS RIGHTS

No Adverse Action for Taking Protected Industrial Action

The Fair Work Act recognises that taking protected industrial action is a workplace right. An Employer cannot take adverse action against an employee for engaging in protected industrial action.

VAHPA Gives Notice to the Employer of Intention to Take Action

The Fair Work Act requires VAHPA to give your Employer five days written notice of the intention of members to take particular types of protected industrial action. There is no requirement under the Fair Work Act for a particular employee to inform their manager or supervisor of their intention to engage in protected industrial action.

Payment for Complete Stoppage

If protected industrial action is taken which constitutes a failure/refusal to attend work or a failure/refusal to perform any work at all (Complete Stoppage), the Employer must not make any payment for the duration of that Complete Stoppage.

Payment for Partial Work Bans or Limitations

A partial work ban is industrial action that is not: (a) a failure or refusal to attend for work; or (b) a failure or refusal to perform any work at all.

Partial Payment Notice

If you engage in a partial work ban, your Employer may issue you with a Partial Payment notice and if this occurs please contact VAHPA immediately.

Non-Payment Notice

If you engage in a partial work ban, your Employer may give you a Non-Payment notice and you can choose not to attend work or refuse to perform any duties, for the period that the Employer is refusing to pay you, as this counts as protected industrial action. Contact VAHPA immediately.



BARGAINING FAQ

PROTECTED INDUSTRIAL ACTION MEMBERS RIGHTS

What is industrial action?

Industrial action may include such things as going on strike (ie: not attending or performing work), work bans (ie: not performing all normal duties) or a range of other possible actions.

What is protected industrial action?

"Protected Industrial Action" is a definition under Australian Law which defines what type of industrial action is lawful or legal to take.

In order for industrial action to be lawful in Australia, the following requirements must be met (as per Fair Work Australia Website):

- *an existing agreement has passed its nominal expiry date*
- *the industrial action is in support of a new enterprise agreement (or is in response to industrial action by the other side)*
- *in the case of employees initiating action in support of claims, Fair Work Australia has granted an **order for a protected action ballot to be held and the ballot has endorsed action being taken***
- the required notice has been given to the other party
- the bargaining representative(s) organising the action, or representing the employees who are taking or organising the action, must be genuinely trying to reach agreement.

If I voted 'Yes' in the ballot, do I have to take Industrial Action?

Because we won the ballot, it is now legal to take those forms of industrial action listed in the ballot. However, just because you voted yes in the ballot it does not mean you have to take action, it simply ensures that we are legally able to should action be required.

Does my union membership remain private?

The ballot was conducted by the TrueVote on behalf of VAHPA and your membership information has not been given to your employer or any body other than TrueVote.

