

RTBU EXPRESS



The Official Newsletter of the Rail Divisions of the RTBU Victorian Branch
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CLASS ACTION LAUNCHED FOR TRANSPORT WORKERS' UNPAID SUPER

Vik Sharma
State Secretary

The Rail Tram and Bus Union and Gordon Legal have announced a class action against one of Australia's largest super funds.

The Emergency and State Services Super (ESSSuper) is under fire for unpaid superannuation to transport employees, which could exceed more than \$40 million in unpaid entitlement.

ESSSuper is responsible for managing the superannuation of more than 127,000 members, holding over \$36 billion in assets. The super fund has been accused of breaching its obligation to its members and failing to include shift penalty allowances when calculating the super owed to some Transport Fund members.

The class action will represent a few hundred group members, including a mix of transport workers who are still actively working and those who have already retired and are eligible to join the legal action.

Gordon Legal Partner James Naughton, one of the lawyers leading the class action, is calling for possibly affected transport workers to get in touch directly with the firm to receive advice on their eligibility to join the class action.

We have uncovered cases where ESSSuper has been miscalculating superannuation entitlements by as much as \$300,000. Such variances can have a drastic impact on the ability of members to retire and have the quality of retirement they deserve.

The RTBU will keep working tirelessly to ensure members get the retirement funds they are entitled to.

Superannuation is the most important aspect of financial planning for retirement in Australia and it is a basic expectation of workers that superannuation is paid correctly.

We are encouraging members to share this notice widely and ensure anyone who has

been a member of the ESSS Transport Fund is able to contact the law firm to understand their legal rights and eligibility to join the class action. Please note this could also affect deceased members who were part of the Transport Fund

Finally I'd like to acknowledge the hard work of Bill Seventis and Amanda Swayn for their hard work in research and preparation towards getting this important case off the ground and into a strong position for RTBU members.

In unity

Vik Sharma
Victorian Branch Secretary



RTBU Delegate and lead applicant Bill Seventis (centre) with (right to left) RTBU Industrial Officer Amanda Swayn, Gordon Legal Lawyer Angelica Nippard, Gordon Legal Partner James Naughton and RTBU Branch Secretary Vik Sharma launched the class action together drawing media attention from across the country.



For more information or to register please scan the QR code.





NEW METRO FRANCHISE ON ITS WAY!

Victor Moore
National President

Late last week Metro management sent out a notice confirming that their stakeholder partners MTR Corporation, UGL and John Holland will be going their separate ways for the new MR5 franchise agreement bid.

Regardless of who the successful operator will be for the new MR5 contract your Metro Enterprise Agreement will continue to apply and your accrued entitlements including Long Service Leave, Annual Leave, and Bonus Days, will carry forward to the new franchise operator.

Job Security provisions, pay rises, classifications, training obligations and other measures that are covered under your Metro Rail Operations EA will also carry forward. This also includes obligations to maintain Station Control Desks and Booking Offices.

The clause titled Continuity of Service recognises the rights of members to bring across their accruals regardless of the number of consecutive operators that members have worked for.

These rights and obligations on the employer to protect your basic industrial rights happened because of the lengthy 12-month industrial campaign that the RTBU took as far back as 1997.

Without that successful fight, we would not have the same transmission and continuity of service rights that we have now and it was this action that protected what were traditionally public sector conditions transmitted to the new Franchise operators.

Since 1998 members rights have been protected and evolved under numerous consecutive EAs with these protection clauses having stood the test of time again and again including under previous regimes such as Connex, National Express, Connex (again) and Metro Trains Melbourne.

In early December 2002 a major test of these clauses was put forward when UK operator National Express spat the dummy and threw back the keys to the network. This threw the future transport services across the network

into doubt as National Express shareholders started eyeing off members' accrued entitlements to pay for the organisation's debts.

It really showed the united power of the RTBU (then called the Public Transport Union) that pressured the government of the day to guarantee members' entitlements and jobs and to ensure that continuity of service for our members and the continued operation of the wider network.

Any transition to a new operator can cause confusion especially to members who have not seen this process before, but rest assured with the combined experience of your officials at the RTBU we will continue to navigate change to ensure members are protected.

As this is still early in the franchise process and there is a long way to go yet we will keep members up to date on progress and have meetings of members once there is more information around the new MR5 franchise.

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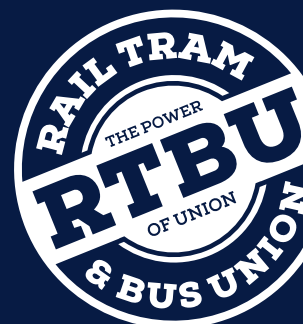
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Organiser**
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THE ART OF ARRANGING FLEXIBLE WORK

Callen Parsons

Industrial Officer

We receive many enquiries from members asking for help with flexible work arrangements (FWAs). Given they are such a common request, we've put together a simple step by step process for ensuring you get the best possible outcome.

Here we go:

1. Make sure you're eligible to request a FWA

Firstly, you are entitled to make a request if you've completed at least 12 months continuous service with the company. This doesn't mean 12 months in a particular role, just that you've been employed by the company for 12 months.

An employee can request a FWA if they:

- are pregnant
- are the parent, or have responsibility for the care, of a child who is of school age or younger
- are a carer (within the meaning of the Carer Recognition Act 2010)
- have a disability
- are 55 or older
- are experiencing family and domestic violence, or
- are caring for or supporting an immediate family or household member who requires care or support because they are experiencing family and domestic violence.

You may require documentation to demonstrate that you fit the criteria. It is worthwhile seeking this prior to making a request.

2. What types of changes in working arrangements can you request?

- changes in hours of work (for example, reduction in hours worked, changes to start/finish times)
- changes in patterns of work (for example, working 'split shifts' or job sharing arrangements)

- changes in location of work (for example, working from home or another location).

While these are the most common type of change, there could be other arrangements that are suitable to request. Everyone's life and family are different and require different flexibility. It's worth considering what you need to make things work.

3. Find the form and complete it

This seems straight forward but employers don't always make this easy. You should be able to locate the form on the employer intranet. If you have any problems with this, ask a delegate, manager or HR.

When completing the form, provide the information to demonstrate you meet the criteria and be clear in what you are requesting.

4. The 21 day window to respond

The employer has 21 days to respond to you and it must be in writing. The employer may only refuse your request if they have discussed the request with the employee, genuinely tried to reach an agreement with the employee for alternative arrangements and considered the consequences for the employee of refusing the request. Only once these steps are completed can the employer refuse your request on reasonable business grounds.

In most cases, requests are accommodated in full or with a few tweaks. Your RTBU Delegate or Organiser can assist you at any time in the process.

5. What if my request is rejected?

The employer can only reject a flexible work request on reasonable business grounds. These include:

- cost – the requested arrangements would be too costly for the employer
- capacity – there's no capacity to change the working arrangements of other employees to accommodate the request

- practicality – it would be impractical to change the working arrangements of other employees, or take on new employees, to accommodate the request

- inefficiency or impact – the requested arrangement would be likely to result in significant loss in efficiency or productivity, or have a significant negative impact on customer service.

With large organisations like Metro or V/Line, it is difficult for the employer to make arguments around reasonable business grounds if the request is reasonable and clearly fits with the employee's individual circumstances. However, we often see that an employer's default response is to deny the request. At this point, you should contact your RTBU Organiser for assistance in engaging your employer.

Should an employer be unreasonable in considering a request, the RTBU could initiate a dispute on your behalf or escalate the matter to the Fair Work Commission for assistance.

It is vital that you speak to your organiser should you have any concerns throughout the process.

6. Review of an approved flexible work arrangement

Most employers will require you to resubmit a new flexible work request every 3 to 6 months. It is important that you keep your documentation as this will facilitate easy submission should your circumstances remain unchanged.

7. Get help and ask questions

Your RTBU team of Delegates, Organisers and Industrial Officers are here to help you at every step along the way. Whether it's advice on commencing a flexible work arrangement or representation when engaging a manager, things always go better when you've got the RTBU in your corner.





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