

FWC makes protected action ballot order

Dear Member,

Further to the [previous newsletter](#), the Fair Work Commission has today made the protected action ballot order for members employed under the *ACT Public Sector Support Services Enterprise Agreement 2013-2017*, that is, food services and ward services, to vote to take industrial action. Please find attached the order and decision.

The vote will take place within 20 days of the making of the order and if a majority of HSU members vote yes to each question, that form of industrial action becomes 'protected'.

As members will know, ACT Health originally objected to the HSU's application because they sought 7 days' notice on the 2 hour stop work and indefinite stoppages. The HSU has reached agreement with ACT Health that 5 days' notice will apply to the action of an up to 24 hours stoppage or indefinite rolling stoppages, but the standard 3 working days' notice prescribed by the Fair Work Act 2009 will apply to all other action.

If any member has any questions about the proposed industrial action or the ballot process, please speak to your delegate or workplace union representative. Alternatively, you can contact your local HSU Organiser, Sarah Gleeson on sarah.gleeson@hsu.asn.au or 0437 145 778.

In the meantime, as only HSU members can participate in the ballot, members are requested to update their contact details by calling 1300 478 679 and encourage other employees to join the union because **in unity is strength**.

In unity,



Gerard Hayes
Secretary, HSU NSW/ACT/QLD



DECISION

Fair Work Act 2009

s.437 - Application for a protected action ballot order

Health Services Union-New South Wales Branch

v

**Calvary Health Care ACT Ltd T/A Calvary Public Hospital Bruce;
ACT Health**
(B2018/356)

COMMISSIONER JOHNS

MELBOURNE, 18 MAY 2018

Proposed protected action ballot of employees.

[1] On 10 May 2018, the Health Services Union of Australia New South Wales Branch (**HSU**) made an application for a protected action ballot order (**Order**) in relation to a group of employees of Calvary Health Care ACT Ltd T/A Calvary Public Hospital Bruce and ACT Health (**Employers**).

[2] The application was made pursuant to s.437 of the *Fair Work Act 2009* (**Act**).

[3] The Employers were served with the application within 24 hours after the making of it to the Fair Work Commission (**Commission**).

[4] The employees to be balloted are presently covered by *ACT Public Sector Support Services Enterprise Agreement 2013-2017* (**Agreement**). The nominal expiry date of the Agreement is 30 June 2017.

[5] On 11 May 2018, the Employers stated that they did not consent to the proposed Order.

[6] The Matter was subsequently listed for a Mentions and/or Directions Hearing on 18 May 2018.

[7] On 18 May 2018, the HSU filed an amended protected action ballot order.

[8] At the Mentions and/or Directions Hearing, the Employers stated that they consented to the amended order.

[9] The Commission is satisfied that the requirements of subsection 443(1) of the Act have been met. Accordingly, an Order must be made.

[10] The Order [PR607211] will be issued concurrently with this decision.



COMMISSIONER

Appearances:

Ms J Gordon for the HSU

Ms S Gleeson for the HSU

Mr J Karcher for the Employer

Mr D Wedgewood for the Employer

Ms M Vella for the Employer

Hearing details:

11:00am

18 May 2018

By Telephone

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<PR607210>



ORDER

Fair Work Act 2009

s.437 - Application for a protected action ballot order

Health Services Union-New South Wales Branch

v

Calvary Health Care ACT Ltd T/A Calvary Public Hospital Bruce; ACT Health

(B2018/356)

COMMISSIONER JOHNS

MELBOURNE, 18 MAY 2018

Proposed protected action ballot of employees.

Pursuant to s.443 of the *Fair Work Act 2009* (the Act) the Fair Work Commission orders:

1. PROTECTED ACTION BALLOT TO BE HELD

The Health Services Union-New South Wales Branch (**Applicant**) is to hold a protected action ballot of employees of ACT Health and Calvary Bruce Public Hospital (**Respondents**) described in clause 3 of this order.

2. NAME OF PERSON AUTHORISED TO CONDUCT THE BALLOT

The ballot is to be conducted by the Australian Electoral Commission.

3. GROUP OR GROUPS OF EMPLOYEES TO BE BALLOTTED

In accordance with s.437(5) of the Act, the group of employees will be employees of the Respondents who will be covered by the proposed enterprise agreement and who are members of the Applicant.

4. DATE BY WHICH BALLOT CLOSES

- 4.1 The date by which voting in the protected action ballot is to close is 20 working days from the date of this Order.
- 4.2 Votes must be cast before the voting closing time on the day in which the ballot is to close.

5. QUESTIONS

The question(s) to be put to voters in the ballot are:

In support of reaching an enterprise agreement with your employer, do you support the taking of protected industrial action against your employer which involves one or more of the following actions taken either separately, concurrently, and/or consecutively:

Question 1

The wearing campaign related materials, such as t-shirts, badges and stickers?

Yes No

Question 2

The distribution of campaign material and speaking to patients and the community about the purpose of the campaign material during working hours concurrent to the undertaking of normal duties?

Yes No

Question 3

An unlimited number of stoppages on the performance of all work for up to 2 hours?

Yes No

Question 4

An unlimited number of stoppages on the performance of all work for up to 24 hours?

Yes No

Question 5

An unlimited number of indefinite stoppages on the performance of all work?

Yes No

6. NOTICE

The Applicant will provide 5 working days' notice in respect of Questions 4 and 5.

7. POSTING OF ORDER

The Respondent shall cause a copy of this Order to be posted at prominent locations in, or about, each of the Respondent's worksites.

8. TERM AND DATE OF EFFECT

This Order shall come into effect from 18 May 2018 and shall remain in force for a period of one calendar month thereafter unless revoked, suspended or varied by further Order of the Fair Work Commission.



COMMISSIONER

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