



National Coach Connections Summit

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Remaining competitive in a tough industrial relations environment

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The Future for Long Distance, Charter and Express



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Remaining Competitive

- How not to remain competitive- sham contracting, not paying the correct amount.
- How to negotiate an enterprise agreement, meet the BOOT and stay competitive.
- The decasualisation of the Coach industry.
- Industrial reform – what's ahead?



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How not to remain competitive

- Sham contracting occurs when an employer tries to disguise the employment contract
- Examples: control over work, hours of work, ongoing work, financial risk, tools of trade
- It is an offence to misrepresent the employment relationship, threaten to dismiss if not contracted and make a false statement to induce to contract



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How not to remain competitive

Other examples of not remaining competitive include:

- Not paying in accordance with the Passenger Vehicle Transportation Award 2009
- Not having a written contract of employment which covers over award payments in lieu of penalties and loadings
- Flat rates of pay or those that equate to a percentage of the take for the day.



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Why negotiate an enterprise agreement?

What are the characteristics of coach and charter employment?

- Flat rates of pay (advertised costs)
- Broken shifts (More than one job a day)
- Irregular hours (Early morning/ late nights)
- Waiting time (at the depot or out on the road)
- Living away from home (Snow jobs?)
- Two Up driving (Long distances)



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Some Tricks of the Trade

Some tricks of the trade include:

- Ensuring that the casual loading is aggregated with the other penalties and loadings.
- Ensuring that the overnight allowance is only paid for a full 24 hours not to and from.
- Ensuring the LAHA is treated as an allowance not a hourly rate or part of the SGC.
- Paying a flat rate.



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How to pay Casuals

- Base Rate = \$20.68 (Grade 3)
- Casual Rate = \$25.85 ($\$20.68 \times 125\%$)

Overtime and Saturday Rate

- Casual Rate = \$38.78 ($\$25.85 \times 150\%$)
- Casual Rate = \$36.19 ($\$20.68 \times 175\%$) 7.16%

Overtime and Sunday

- Casual Rate = \$51.70 ($\$25.85 \times 200\%$)
- Casual Rate = \$46.53 ($\$20.68 \times 225\%$) 11.11%



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The Living Away from Home Allowance

LAHA (8 hours)

- Grade 4 casual rate = \$214.08 plus \$20.33 ($\$26.76 \times 8$ plus $\$214.08 \times 9.5\%$) Total \$234.41

LAHA is an allowance

- Allowance payable = \$171.28 ($\21.41×8 hours)
- No SGC is payable

Difference is 36.85% savings



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Paying a Flat Rate

Example:

- Driver works a day shift from 8.00am to 8.00pm.
- He has a six hour break in the middle of the day.
- It take the driver 3 hours to get to the destination and 3 hours to get back to base.
- He has a 60 minute scheduled lunch break in the middle of the shift.
- He is paid \$22.00 an hour for the 12 hours he is away from the depot. Total \$264.00 for the shift.



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Paying a Flat Rate

The Award rate (day charter) is \$25.85 an hour for ordinary time and \$36.19 for the first two hours of overtime.

The driver has a letter of employment which says any over award payments cover any loadings or penalties.

His Award payments are:

- 4 hours at \$25.85 = \$103.04
- 5 hours at \$12.79 = \$63.95
- 1 hour meal break = \$0.00
- 2 hours at \$36.19 = \$72.38



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Paying a Flat Rate

\$239.37



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Decasualisation

There are two schools of thought about casuals:

- One is that an employee's status is set out in their letter of appointment or, as defined, by an Award/EA and the other is that an employee's status is determined by the work they actually undertake.
- If an employee is placed on a regular rostered and works in excess of 38 hours a week they are not likely to be considered casual employees.
- The risk is that all entitlements will apply.



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Decasualisation

In the current 4 year review of the PVTAs the ACTU has:

- In the current 4 year review of the PVTAs the ACTU has:
- Sought to introduce a casual conversion clause into all 122 modern awards which mandates conversion rights after 6 months regular work.
- Sought to increase the minimum engagement for casuals to 4 hours per engagement, and
- To insert a clause which requires existing casual employees to be offered any extra work.



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Decasualisation

APTIA's position has been to:

- Oppose a mandatory casual conversion clause in circumstances where reasonable business conditions prevent conversion.
- Provide evidence to the Full Bench hearing the application of the impact that the economy and international events have on the certainty of work in the coach industry.
- Seek to average hours of work over a 52 week period rather than 4 weeks.



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What's Ahead?

Industrial Relations reform is motivated by political, social and Economic factors. On the horizon are the following:

- The decasualisation of the work force
- Return to work provisions in awards
- Domestic violence and cultural leave
- Gender and Transgender equality
- Increase super and portable long service leave
- Protection for workers against underpayment etc
- Reduced penalty rates



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Questions?

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