

 All Members

Industrial Action



Code of Conduct

Industrial action refers to action in which employees work in a manner different from the customary manner. It includes restrictions, limitations, or bans upon work.

Failing to attend for work can constitute industrial action, as can a refusal to perform work such as particular tasks and duties while at the workplace.

Types of industrial action include; strike action, work bans, Go slows, work to rule, stop work meetings and picketing.

Strike Action

A strike is a collective withdrawal of labour by employees. Under such action, employees refuse to perform all work, not just selected duties. Strikes are usually, but not always organised by a union.

The purpose of a strike is to pressure an employer into complying with particular demands, refraining from doing something, or to come to the negotiating table.

A form of strike action is a *rolling strike*. *Rolling strike* action has been carried out in Tasmania on two occasions in the 1980's and 1990's. In the 1990's each day (for an eight week period) 10% of schools closed for two hours. Each day the Newspaper listed the schools that would be closed the following day. This strike action resulted in the incoming Labour Government entering into negotiations with the AEU to establish a salary nexus between Tasmanian and mainland school and TAFE teachers.

Stop Work Meetings

Stop work meetings can be authorised or unauthorised. Authorised meetings occur without loss of pay e.g. when members stop work to consider whether they want to endorse a new agreement, in work time. While some Awards/Agreements make allowance for authorised stop work meetings neither the Teaching Service Award or Agreement or the TasTAFE Award or Agreement or the

Tasmanian State Service Award makes provision for authorised stop work meetings. However, authorisation can in theory be obtained from the Department by agreement between the Department

and the AEU, however this is unlikely in a climate when industrial action is considered. An unauthorised meeting is effectively a type of strike. It is a temporary withdrawal of labour and therefore time spent on an unauthorised stop work meeting is unpaid.

Work Bans

Work bans involve employees refusing to do certain types of work or refusing to work with particular management, employee or other third parties. For example, a work ban may include employees refusing to train new employees or student teachers or carry out a particular task like performing a medical procedure on a student if you are support staff or refusing to record your hours if you are employed by TAFE. Bans on overtime are also included in this category of industrial action.

Work to Rule

A work to rule campaign involves employees taking their work responsibilities very literally. For example, under a work to rule campaign an employee who normally works additional time for no extra benefit would only work the official set hours required in the Award/Agreement. This can also be difficult in a school setting as many teachers find if they only work the set 35 hours per week they are unable to get lesson plans done and are unprepared for class which only adds to work pressure.

Go slows

A go slow is where employees delay production of work flow to put pressure on the employer. The employees deliberately work slower than they would normally. In a school setting, teachers could in theory "go slow" on tasks such as report writing or marking, or putting the student results into SARIS, but in reality, this industrial action would not likely be effective in a school environment.

Picketing

Picketing occurs in conjunction with strike action. It involves the physical presence of striking workers outside a workplace. Picketing may also involve blockading certain people or things from entering or leaving the workplace.

Picketing can breach other general law and police may



intervene for example breaches of The Police Offences Act such as nuisance, breach of the peace and would also breach provisions in the proposed anti-protest legislation.

How can Tasmanian public sector employees take industrial Action?

Following amendments to The *State Service Act 2000* and the *Industrial Relations Act 1984* the Tasmanian Industrial Commission (TIC) has assumed responsibility for all State Service employees in relation to Industrial Action. Private sector employees are covered by the commonwealth legislation the *Fair Work Act 2009*.

The *Fair Work Act 2009* provides for some strike action to be "protected action" provided six conditions are met. However no such provision is made for Tasmanian public sector employees. If employees take any industrial action, the employer can challenge the action by applying to the Tasmanian Industrial Commission seeking that the action be stopped. There is also provision in the *Industrial Relations Act 1984* for the purpose of resolving the industrial dispute that a commissioner be appointed to conduct a conciliation or an arbitration in respect of the matter.

Pursuant to union convention the decision to take industrial action is made by the branch Executive/Council after member consultation.

No work as directed, no pay

An employer is entitled at common law, to refuse payment to employees if the employees refuse to perform the work they have been directed to perform.

Potential Ramifications of taking Industrial Action other than loss of pay?

If a Commissioner determined a course of industrial action to not be for a legitimate industrial purpose it is possible for employees to be found to have breached the *State Service Act 2000*, Section 9 – the State Service Code of Conduct, subsection (2) "an employee must act with care and diligence in the course of State Service employment". However, the AEU would never endorse or support industrial

action which could place members at unnecessary risk and should such action be taken by the employer the AEU would support/advocate for any and all members affected.

Relevant sections of the Awards and Agreements:

- Industrial Relations Act 1984
- Teaching Service (Tasmanian Public Sector) Award
- Teaching Service Salaries and Conditions of Employment Agreement –
- TasTAFE Teaching Staff Award
- TasTAFE Teaching Staff Industrial Agreement 2014
- Tasmanian State Service Award

Need Support? Your union is here to help

Email: support@aeutas.org.au Phone: (03) 6234 9500

Visit the members area for resources and further information : aeutas.org.au/help



aeutas.org.au