



Federal Court of Australia

District Registry: New South Wales Registry

Division: Fair Work

No: NSD1770/2024

**SYDNEY TRAINS** and another named in the schedule  
Applicants

**AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION** and others named in the  
schedule  
Respondents

### **ORDER**

**JUDGE:** Justice Perram

**DATE OF ORDER:** 8 December 2024

**WHERE MADE:** Sydney

#### **PENAL NOTICE UNDER RULE 41.06 OF THE *FEDERAL COURT RULES 2011* (CTH)**

**TO: AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION;  
COMMUNICATIONS, ELECTRICAL, ELECTRONIC, ENERGY,  
INFORMATION, POSTAL, PLUMBING AND ALLIED SERVICES UNION  
OF AUSTRALIA;  
AUTOMOTIVE, FOOD, METALS, ENGINEERING, PRINTING AND  
KINDRED INDUSTRIES UNION KNOWN AS THE AUSTRALIAN  
MANUFACTURING WORKERS UNION;  
ASSOCIATION OF PROFESSIONAL ENGINEERS, SCIENTISTS AND  
MANAGERS AUSTRALIA;  
AUSTRALIAN MUNICIPAL, ADMINISTRATIVE, CLERICAL AND  
SERVICES UNION**

#### **IF YOU (BEING THE PERSON BOUND BY THIS ORDER):**

- (A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED IN THIS ORDER FOR THE DOING OF THE ACT; OR**
- (B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER REQUIRES YOU NOT TO DO,**



**YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY OR OTHER PUNISHMENT.**

**ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER MAY BE SIMILARLY PUNISHED.**

**UPON THE APPLICANT, BY ITS COUNSEL, UNDERTAKING:**

- (a) to submit to such order (if any) as the Court may consider to be just for the payment of compensation, (to be assessed by the Court or as it may direct), to any person, (whether or not that person is a party), affected by the operation of the order or undertaking or any continuation (with or without variation) of the order or undertaking; and
- (b) to pay the compensation referred to in (a) to the person affected by the operation of the order or undertaking,

**THE COURT ORDERS THAT:**

1. Until the hearing and determination of this proceeding or further order of the Court, each of the Respondents (together, **the Unions**), whether by their officers, employees, delegates, agents or howsoever otherwise, be restrained from:
  - (a) treating the Notices as valid notices for the purpose of s 414 of the FW Act; and/or
  - (b) organising, encouraging, advising, counselling, procuring or inducing any employee of the Applicants to engage in any of the forms of industrial action identified in the Notices,(the **Interim Restraining Order**).
2. Each of the Unions must forthwith:
  - (a) take all reasonable steps to bring the existence of the Interim Restraining Order to the attention of their officers and employees in New South Wales and their delegates who are employed by the Applicants;



- (b) notify their officers and employees in New South Wales and their delegates who are employed by the Applicants that the industrial action in the Notices is restrained, and is not authorised or encouraged by the Respondents;
- (c) issue and distribute (including but not limited to posting, and maintain for the time that the Interim Restraining Order remains in force, on the webpages <https://rtbuexpress.com.au/>, <https://www.etunsw.asn.au/>, <https://www.professionalsaustralia.org.au/>, <https://www.asu.org.au/>, <https://www.amwu.org.au/nsw>, <https://fightingforourfuture.com.au/>) a communication to their members that includes a copy of this Order and states that action of the kind referred to in the Notices is not to occur and is not authorised by the Respondents.

3. In this Order:

- (a) **Notices** means the Notices contained in Annexure **FA-27** of the Affidavit of Fatima Abbas affirmed 8 December 2024.
- (b) **Industrial Action** means:
  - (i) a failure or refusal by an employee to attend for work, or to perform any work when at work;
  - (ii) a ban, restriction or limitation on the performance of work by an employee or on the acceptance of or offering for work by an employee;
  - (iii) the performance of work by an employee in a manner different from that in which it is customarily performed, or the adoption of a practice in relation to work by an employee, in either case the result of which is a restriction or limitation on, or a delay in, the normal work performed, but does not include:
    - (A) action by an employee that is authorised or agreed to by the employer;
    - (B) action by an employee if:



- (1) the action was based on a reasonable concern of the employee about an imminent risk to his or her health or safety; and
  - (2) the employee did not unreasonably fail to comply with a direction of his or her employer to perform other available work, whether at the same or another workplace, that was safe and appropriate for the employee to perform.
4. The requirement under Rule 41.07 of the *Federal Court Rules 2011* (Cth) (**Rules**) for personal service of this Order on each of the Unions is dispensed with and, instead, service of this Order upon the Unions is permitted by forwarding a copy of it by email or facsimile transmission addressed to the Secretary of the Branch of each of the Unions.
5. The time for service of the Originating Application and supporting affidavits of Fatima Abbas on the Unions as required by Rule 8.06 of the Rules be abridged to 4pm on Sunday, 8 December 2024.
6. To the extent necessary, service of the Originating Application and supporting affidavit of Fatima Abbas affirmed 8 December 2024 on the Unions as required by Rule 10.01 of the Rules be dispensed with, and instead, service of those documents upon the Unions is permitted by forwarding a copy of it by email or facsimile transmission addressed to the Secretary of the Branch of each of the Unions.
7. Liberty to apply.
8. There be no order as to costs.



Date orders authenticated: 8 December 2024

*Sia Lagos*  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



**Schedule**

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Division: Fair Work

Second Applicant	NSW TRAINS
Second Respondent	COMMUNICATIONS ELECTRICAL ELECTRONIC ENERGY INFORMATION POSTAL PLUMBING AND ALLIED SERVICES UNION OF AUSTRALIA
Third Respondent	AUTOMOTIVE, FOOD, METALS, ENGINEERING, PRINTING AND KINDRED INDUSTRIES UNION KNOWN AS THE AUSTRALIAN MANUFACTURING WORKERS UNION
Fourth Respondent	ASSOCIATION OF PROFESSIONAL ENGINEERS, SCIENTISTS AND MANAGERS, AUSTRALIA
Fifth Respondent	AUSTRALIAN MUNICIPAL, ADMINISTRATIVE, CLERICAL AND SERVICES UNION