

CASUAL SCHOOL BUS DRIVERS – MINIMUM ENGAGEMENT

3 February 2017

Background

BusNSW has previously provided information to Members about the minimum engagement for casual school bus drivers under the Passenger Vehicle Transportation Award (PVTA).

While the meaning of the term “engagement” has not been formally determined by the Fair Work Commission, a June 2013 decision by the Commission (Commissioner Bissett) rejected an application made by APTIA (Industrial arm of BIC) to amend the PVTA casual school bus driver minimum engagement clause (clause 10.5) and indicated that the correct interpretation of “engagement” should be on a “per start” basis. That is to say, that the minimum engagement of two hours at PVTA rates ought to apply to the morning service and again to the afternoon service, regardless of whether the same driver completes both.

The issue of minimum engagements is complex and the impact of the Commissioner Bissett opinion will vary from operator to operator depending on the number of hours paid, the hourly rate paid, and the employment arrangements which apply to the casual school bus drivers. It was recognised that operators were NOT likely to be affected where they:

1. Have a registered Enterprise Agreement in place, or
2. Already pay a minimum of 2 hours per start, or
3. Are an owner driver, or
4. Have an arrangement in place to offset over award payments against the minimum engagement payments.

This Member Information provides additional information to assist operators to understand how off-set arrangements (item 4 above) work, and to calculate the minimum payments applicable to a casual bus driver solely undertaking school services.

Off-setting Over Award Payments

Operators would be aware of the significant difference in the wage payable to casual school bus drivers under the PVTA (where the hourly rate is around \$25) and under the TfNSW contract (where the hourly rate is around \$32). Offset arrangements (as per item 4 above) use these “above Award” payments to “off-set” the minimum engagement (at a lower rate of pay) under the PVTA.

In other words, an operator can pay a casual school bus driver less than 2 hours per start, provided that the driver is paid an amount equal to or greater than the amount they would receive under the PVTA for the 2 hours per start.

The following table provides the minimum monetary amounts that apply under the PVTA for casual school bus drivers from 1 July, 2016.

Minimum payments for Casual School Bus Driver	PVTA Grade 2 Driver of a school bus with carrying capacity of less than 25 children	PVTA Grade 3 Driver of a school bus with carrying capacity of 25 or more children
Minimum payment per start (if school bus driver works in the morning <u>or</u> the afternoon).	\$48.90 (2 hours at PVTA rate)	\$51.70 (2 hours at PVTA rate)
Minimum Payment per day (if school bus driver works in the morning <u>and</u> the afternoon).	\$97.80 (4 hours at PVTA rate)	\$103.40 (4 hours at PVTA rate)

When determining the monetary amount to be used to off-set the PVTA rate operators can include any allowances (such as the D/C allowance) paid per start (or per day where the school bus driver works in the morning and the afternoon).

Appendix A provides examples of where operators have used the rate applicable to casual school bus drivers (under TfNSW contracts) to partially or fully off-set minimum engagement payments under the PVTA.

Driver Notification

Where an operator wishes to use above award payments to “off-set” the minimum engagement requirements, it is important that **they advise their employee/s in writing** that the over award payment (which may include the D/C allowance) covers any extra payment under the Award including penalties, loadings, minimum engagements or paid allowances.

Operators using off-set provisions for **new** employees, should use the “Pro-forma A: Letter of Appointment - Casual School Bus Driver” from the BusNSW Industrial Relations Guide. A Word version is available on the BusNSW website.

Operators using off-set provisions for **existing** employees, should provide a letter to each driver with recommended wording as follows:

"Dear (name)

In relation to your employment with [insert company name] I want to advise you that our current rates of pay are currently significantly above the rates of pay and allowances provided by the Passenger Vehicle Transportation Award 2010.

Unless it is otherwise advised on your pay slip the rates of pay are intended to cover all payments under the Award (PVTA) including any penalties, loading or allowances.

Yours etc."

Operators should ensure that drivers acknowledge receipt of the letter by signing and dating the letter, and operators should file a copy of the letter.

Examples where operators “off-set” minimum engagement payments under the PVTA are outlined in Appendix A. **For further information please call BusNSW on 02 8839 9500.**



Member Information

EXAMPLE 1:	EXAMPLE 2:	EXAMPLE 3:	EXAMPLE 4:
Driver works a shift that is 1 hour in the morning OR 1 hour in the afternoon	Driver works a shift that is 1 hour in the morning AND 1 hour in the afternoon.	Driver works shift that is 1.5 hours in the morning OR 1.5 hours in the afternoon.	Driver works a shift that is 1.5 hours in the morning AND 1.5 hours in the afternoon.
Operator pays casual school bus driver BusNSW recommended rate of \$32.7815.	Operator pays casual school bus driver BusNSW recommended rate of \$32.7815.	Operator pays casual school bus driver BusNSW recommended rate of \$32.7815	Operator pays casual school bus driver BusNSW recommended rate of \$32.7815.
Operator pays driver the Driver / Conductor allowance (to check passes and/or collect fares) \$15.0022 per day.	Operator pays driver the Driver / Conductor allowance (to check passes and/or collect fares) \$15.0022 per day.	Operator pays driver the Driver / Conductor allowance (to check passes and/or collect fares) \$15.0022 per day.	Operator pays driver the Driver / Conductor allowance (to check passes and/or collect fares) \$15.0022 per day.
Driver is driving a 57 seat Category 4 bus.	Driver is driving a 57 seat Category 4 bus.	Driver is driving a 57 seat Category 4 bus.	Driver is driving a 57 seat Category 4 bus.
Operators pays: 1 x hourly rate of \$32.7815 = \$32.7815. 1 x D/C rate of \$15.0022 Total equals \$47.78 per day.	Operators pays: (1+1) 2 x hourly rate of \$32.7815 = \$65.56 1 x D/C rate of \$15.0022 Total equals \$80.56 per day.	Operators pays: 1.5 x hourly rate of \$32.7815 = \$49.1722. 1 x D/C rate of \$15.0022. Total equals \$64.17 per day.	Operators pays: (1.5 + 1.5) 3 x hourly rate of \$32.7815 = \$98.3455 1 x D/C rate of \$15.0022. Total equals \$113.34 per day
Operator has requirement to pay minimum \$51.70 for the day (2 hours at Grade 3 PVTA).	Operator has requirement to pay minimum \$103.40 for the day (4 hours at Grade 3 PVTA).	Operator has requirement to pay minimum \$51.70 for the day (2 hours at Grade 3 PVTA).	Operator has requirement to pay minimum \$103.40 for the day (4 hours at Grade 3 PVTA).
Operator has to pay additional \$3.92 (\$51.70 – 47.78) to ensure the minimum payment of \$51.70 is met.	Operator has to pay additional \$22.84 (\$103.40 – 80.56) to ensure the minimum payment of \$103.40 is met.	Driver payment of \$64.17 is above minimum \$51.70 for the day so <u>no</u> additional payment is required.	Driver payment of \$113.34 is above minimum \$103.40 for the day so <u>no</u> additional payment is required.