



Why has the Opal Action been postponed and what are we doing to be able to take it again? (Member explainer)

19 September 2022

Dear Members,

We understand that many members were looking forward to the upcoming action of turning off the Opal gates completely, which was due to start on the 21 September.

However, members also would have seen the Transport Minister in the media threatening to sack and prosecute any RTBU member who turns off the Opal machine, alleging that it was “illegal”.

We want to make it clear that we will never tolerate this level of bullying from any Government official against our members, and especially not from the Transport Minister. We will be fighting this, and we believe the best way to do so is to expose the bad faith behaviour of the Government in our application for good faith bargaining orders.

As we have [recently communicated](#), late Friday night we were served with a Court Application from the NSW Government in an attempt to get orders to stop our Opal Machine action. They lodged this case under a different part of the *Fair Work Act* than the last two times and this application came with a few extra risks to our Enterprise Agreement and bargaining campaign.

We took legal advice on this and specifically whether we should fight it in the Commission.

The advice was that fighting it was a valid option, however there was no guarantee that we would win due to the technicality being exploited by the Government that this is not a “specific ban” approved by RTBU members in the Protected Action Ballot back in January. What this means is that if we lost, we would receive orders to not engage in this action, and then potentially lose the right to take any industrial action at all for the rest of this bargaining campaign.

Why is this such a risk?

The reaction from the Government regarding this action proves that we have found the biggest chink in their armour. To have a Minister bellowing in the media like that means we have certainly struck a nerve. We need to keep this action in our armoury.

An even bigger risk, which is one EA delegates decided on Saturday they are not willing to take, is that if the Commissioner gave us orders to cease the action, all it would take is **one member** to accidentally switch off the Opal gates or send an email to one another about the action and we would **lose all our industrial action options**. This close to the finish line, we cannot in good conscience endanger the work that every single member has put into this EA and their work for the past few years.

So what’s the plan? – A new Protected Action Ballot

We are absolutely still committed to taking this action, just on a slightly amended timeline. In order to make sure this very strong action is legally watertight, we have lodged for a new Protected Action Ballot Order in the FWC. This will allow members to vote on the action: turning off the Opal machines and leaving the gates open.

Once this ballot gets up, our fight continues, and our station staff members are definitely protected when they turn off those opal machines.

What happens next? – Voting for the Opal Action

Once we have our ballot approved to go out to a vote, members will have to vote YES in the new Protected Action Ballot like they have already done in the previous two. This will be an online voting system once again and should take no more than a minute or two to complete once voting opens and members have their voting details and the ballot question. We will send regular reminders when it is time to vote.

How long will this take?

This morning we lodged the application for a new Protected Action Ballot (Monday 19 September). We anticipate it will take a little while to receive the ballot orders, depending on how hard the Government fights us on the new PABO. Voting will then be open for a week. If members vote **YES** to the PAB, we will immediately notify of the new opal action. Based on the notification period of the action (how many days’ notice we would have to give, which is still to be determined) we could have the action back up and running in 3-4 weeks. We will keep members updated throughout the process.

Will all staff have to vote or only those who will be taking the industrial action?

All members will get a vote. Make sure you update your details. It’s important that all members vote in the PAB as this will be a very powerful action that will put us in the best place to secure our bargaining claims, improved conditions for each division of our union, and a fair pay rise for all members.

What do we do for now?

Make sure your details are up to date. If you need to update them, call the RTBU office. For now, the action to keep all gates open on stations is to cease. However, the action to leave the wide array gate open is still ongoing. Keep an eye on your emails from updates from us about the process, and regularly touch base with your local delegates.

In Unity,

RTBU NSW