

**Workplace Relations Act 1996**

**AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**Application for an Order for a Protected Action Ballot to be held (s.451, s.455)**

**BP 2008/62**

**Applicant(s)**

<b>Name:</b>	Australian Municipal, Administrative, Clerical and Services Union ("ASU")
<b>Address for service</b>	Ground Floor, 116 Queensberry Street, Carlton South VIC 3053
<b>Contact Person:</b>	Paul Slape
<b>Phone No:</b>	03 9342 1401
<b>Facsimile No:</b>	03 9342 1499
<b>Mobile No:</b>	0418 996 360
<b>Email address:</b>	<a href="mailto:pslape@asu.asn.au">pslape@asu.asn.au</a>

Is the applicant acting as agent for an employee or employees? [ ] Yes [X] No

Is there any existing collective agreement, binding on employees who will be subject to the proposed new agreement, with a nominal expiry date that has not yet passed (subsection 451 (2) of the Act)? [ ] Yes [X] No

**Employer**

The application relates to a proposed protected action ballot among employees of the following employer:

<b>Name:</b>	IBM Australia Limited
<b>Address</b>	Level 13, IBM Centre 601 Pacific Highway ST LEONARDS NSW 2065
<b>Workplace Address</b>	Level 2 3 Brookhollow Avenue BAULKHAM HILLS NSW 2153
<b>Contact Person</b>	Mr Glen Boreham Chief Executive Officer
<b>Phone No:</b>	(02) 9397 8888
<b>Facsimile No:</b>	(02) 9397 8444
<b>Email address:</b>	<a href="mailto:glenb@au1.ibm.com">glenb@au1.ibm.com</a>

### **Nature of Industrial Action proposed (s.452(1)(a))**

Participation in

- bans on overtime;
- four hour stop work meetings;
- rolling four hour stop work meetings over 48 hour periods;
- stoppages of work for the duration of a single shift;
- rolling stoppages of work for the duration of a single shift over one week periods.
- 24 hour stoppages of work;
- 48 hour stoppages of work;
- 72 hour stoppages of work; or
- an indefinite stoppage of work;

for the duration of the bargaining period in BP2008/62.

### **Questions to be Put (s.452(1)(a))**

“Do you, for the purpose of advancing claims in the negotiation of a union collective agreement between the ASU and IBM Australia authorise industrial action in the form of :

- an unlimited number of bans on overtime;
- an unlimited number of four hour stop work meetings;
- rolling four hour stop work meetings over an unlimited number of 48 hour periods;
- an unlimited number of stoppages of work for the duration of a single shift;
- rolling stoppages of work for the duration of a single shift over an unlimited number of week long periods;
- an unlimited number of 24 hour stoppages of work;
- an unlimited number of 48 hour stoppages of work;
- an unlimited number of 72 hour stoppages of work;
- an indefinite stoppage of work;

over the duration of the bargaining period in BP2008/62?”

### **Types of employees to be balloted (s.452(1)(b))**

Those employees who are members of the ASU and who would be subject to the proposed collective agreement described in the attached notice of initiation of bargaining period. However, this does not include, where relevant, any employee who is bound by an Australian Workplace Agreement where that agreement will not have passed its nominal expiry date on the day the ballot order is made.

### **Proposed Authorised Ballot Agent (see s.452(2) and s.480))**

Australian Electoral Commission.

## Attachments Required by the Act (s.453(1) and (3))

The following documents are attached and marked as indicated:

- "A" A copy of the notice pursuant to s.423 initiating a bargaining period with the employer, including the particulars that accompanied that notice pursuant to s.426.
- "B" A written notice showing that the application has been duly authorised by a committee of management of the organisation or by someone authorised by such a committee to authorise the application.
- "C" A declaration complying with s.453(4) and Regulation 9.7, Ch 2.

## Further Attachments

The following additional documents are attached and marked as indicated:

- "D" A draft protected action ballot order
- "E" A draft order regarding the compilation of the roll of voters
- "F" Statement in support of the application



**Signed:**

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**Dated:** 24 June 2008

**Title:** National Secretary

**NOTE:** A COPY OF THIS APPLICATION (BUT **NOT** THE ATTACHMENTS) MUST BE SERVED ON THE EMPLOYER AND ANY PERSON NOMINATED TO CONDUCT THE BALLOT WITHIN 24 HOURS OF LODGING THIS APPLICATION WITH THE COMMISSION (s.454)

## Form R4

Rule 16 of the *Australian Industrial Relations Commission Rules*

*Workplace Relations Act 1996 (the Act)*

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

### NOTICE TO INITIATE A BARGAINING PERIOD (section 423 of the Act)

#### Initiating Party

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Name: **Australian Municipal, Administrative, Clerical and Services Union  
("ASU")**

Address **Ground Floor, 116 Queensberry Street,  
Carlton South VIC 3053**

Contact Person: **Paul Slape**

Phone No: **(03) 9342 1401**

Facsimile No: **(03) 9342 1499**      Mobile No: 0418 996 360

Email address: **[pslape@asu.asn.au](mailto:pslape@asu.asn.au)**

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The Initiating Party is: (tick one)

- an employer
- an organisation of employees
- an employee acting on his or own behalf and on behalf of other employees
- an authorised agent acting on behalf of one or more employees (see Note 1)

#### The Industry in which the Employer is engaged is:

- (i) All employees engaged wholly or partly in the servicing, repairing, maintaining, structurally altering and/or assembling business equipment including, cash registers, accounting machines, adding machines, calculators, computers and peripheral equipment.
- (ii) all persons engaged in any clerical capacity, and/or engaged in the occupation of shorthand writers and typists and/or on calculating, billing, or other machines designed to perform or assist in performing any clerical work whatsoever;

#### Other Negotiating Party/Parties

Name: **IBM Australia Limited**

Street Address **Level 13, IBM Centre  
601 Pacific Highway  
ST LEONARDS NSW 2065**

Contact Person: **Mr Glen Boreham**

Phone No: **(02) 9397 8888**

Fax: (02) 9397 8444

Email: [glenb@au1.ibm.com](mailto:glenb@au1.ibm.com)

**TAKE NOTICE** that the Initiating Party intends to try to make a collective agreement to which s 423 of the Act applies with the Other Negotiating Party/Parties under section 327 [or section 328] of the Act.

**Required Particulars (s 426 of the Act)**

- (a) the single business or part of the single business to be covered by the proposed collective agreement.

**IBM Australia Limited.**

- (b) the types of employees whose employment will be subject to the proposed collective agreement and any other persons who will be bound by the proposed collective agreement.

**All employees of IBM Australia at the IBM Flightdeck, National Operations Centre, NSW.**

- (c) the matters that the initiating party proposes should be dealt with by the proposed collective agreement.

- **A travel allowance for all employees.**
- **Annual wage increases.**
- **Shift penalties.**
- **Redundancy provisions.**
- **A consistent pay system based on skills and experience.**
- **Working from home arrangements.**
- **5 weeks annual leave and leave application procedures.**
- **Paid shift hand over time at the beginning and end of each shift.**
- **Maintenance of all other employment conditions currently contained in IBM policy.**

- (d) the proposed nominal expiry date of the proposed collective agreement

**3 years from the operative date.**

Dated: Thursday, 1 May 2008



PAUL SLAPE

NATIONAL SECRETARY

On behalf of the ASU

***Workplace Relations Act 1996***

**AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**Notice of Authorisation For An Application for Protected Action Ballot**

In the matter of a bargaining period between the ASU and IBM Australia, arising in Matter BP 2008/62.

Under section 453 of the Act, notice is given that the ASU is authorised to apply for a ballot to be held to determine whether proposed industrial action has the support of the relevant employees.

The authorisation is given by me, Paul Slape, National Secretary, of the Australian Municipal, Administrative, Clerical and Services.

I have been duly authorised to give such authorisation by the relevant committee of management of the ASU.



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Paul Slape  
National Secretary  
Australian Municipal, Administrative,  
Clerical and Services Union (ASU)

Date: 24 June 2008

**Workplace Relations Act 1996  
Workplace Relations Regulations 2006**

**AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**Declaration by Applicant for A Secret Ballot Order  
[Section 453(1) and Regulation 9.7, Ch 2]**

Giving false or misleading information is a serious offence.  
[See section 137.1 of the *Criminal Code*].

On 24 June 2008  
.....

I Paul Slape  
.....

Of: Ground Floor, 116 Queensberry Street,  
Carlton South VIC 3053  
.....

pursuant to s.453(1) of the Workplace Relations Act 1996 declare that the industrial action to which the application relates does not involve claims for prohibited content.

Declared by me at Carlton South.



Signed:

\_\_\_\_\_  
Paul Slape  
Australian Municipal, Administrative,  
Clerical and Services Union

Date: 24 June 2008

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

*Workplace Relations Act 1996*

s.451 application for order for protected action ballot to be held

**Australian Municipal, Administrative, Clerical and Services Union (ASU)  
(BP 2008/62)**

[insert name of industry]

[COMMISSION MEMBER]

[LOCATION, DATE]

*Protection action ballot to be held concerning a union collective agreement.*

**DRAFT ORDER**

**1. TITLE**

This Order shall be known as the **ASU – IBM Australia** Protected Action Ballot Order No. 1 of 2008.

**2. APPLICANT / PARTIES BOUND**

The applicant for this order is the **ASU** ("the Australian Municipal, Administrative, Clerical and Services Union ")

The order shall be binding on:

- the **ASU**;
- the Australian Electoral Commission ("the Ballot Agent"); and
- **IBM Australia** ("the employer").

**3. PROTECTED ACTION BALLOT TO TAKE PLACE**

The ASU must hold a protected action ballot to determine whether proposed industrial action has the support of the types of employees described in Clause 5 of this order.

**4. NAME OF PERSON AUTHORISED TO CONDUCT THE BALLOT**

The ballot shall be conducted by the Australian Electoral Commission.

## **5. TYPES OF EMPLOYEES TO BE BALLOTTED**

- 5.1 Subject to clause 5.2, the types of employees to be balloted are those employees of **IBM Australia** at the IBM Flightdeck, National Operations Centre, NSW who are members of the ASU and who would be subject to the proposed collective agreement dealt with in bargaining period BP 2008/62
- 5.2 Any employee who is bound by an Australian Workplace Agreement and/or Individual Transitional Employment Agreement that has not passed its nominal expiry date on the day this ballot order is made shall not be balloted.

## **6. VOTING METHOD**

### **Attendance Ballot**

The voting shall be by attendance ballot.

Votes must be cast before the voting closing time on the day on which the ballot is to close.

Voting must take place during the voters' meal-time or other break, or outside their hours of employment.

The voting shall be conducted in a location/s at the employer's premises to be determined by the Australian Electoral Commission.

## **7. TIMETABLE FOR THE BALLOT**

The roll of voters shall close on

The ballot shall open no sooner than

The ballot shall close on.

Voters may vote in the ballot between:

## **8. QUESTIONS TO BE PUT TO THE RELEVANT EMPLOYEES**

The following question shall be put to the employees in the ballot:

"Do you, for the purpose of advancing claims in the negotiation of a union collective agreement between the ASU and IBM Australia authorise industrial action in the form of :

- an unlimited number of bans on overtime performed before the start of a shift;
- an unlimited number of bans on overtime performed after the end of a shift;
- an unlimited number of four hour stop work meetings;
- rolling four hour stop work meetings over an unlimited number of 48 hour periods;
- an unlimited number of stoppages of work for the duration of a single shift;
- rolling stoppages of work for the duration of a single shift over an unlimited number of one week periods;
- an unlimited number of 24 hour stoppages of work;

- an unlimited number of 48 hour stoppages of work;
  - an unlimited number of 72 hour stoppages of work;
- over the duration of the bargaining period in BP2008/62?”

**9. POSTING OF ORDER**

The employer shall cause a copy of this order to be posted at prominent locations in, or about, the site/s.

**10. TERM AND DATE OF EFFECT**

This Order shall come into effect from [date] and shall remain in force for a period of 4 months.

BY THE COMMISSION:

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

*Workplace Relations Act 1996*

s.451 application for order for protected action ballot to be held

**Australian Municipal, Administrative, Clerical and Services Union (ASU)**  
**(BP 2008/62)**

[insert name of industry]

[COMMISSION MEMBER]

[LOCATION, DATE]

*Compilation of roll of voters.*

**DRAFT ORDER**

**1. TITLE**

This Order will be known as the **ASU – IBM Australia** Protected Action Ballot–  
Compilation of Roll of Voters Order No. 1 of 2006.

**2. APPLICANT / PARTIES BOUND**

This order is binding on:

- the ASU ("the Australian Municipal, Administrative, Clerical and Services Union ");
- Australian Electoral Commission ("the Ballot Agent"); and
- IBM Australia ("the employer").

**3. BALLOT AGENT TO COMPILE ROLL OF VOTERS**

- 3.1 The Ballot Agent shall compile a roll of voters for the ballot to be held in accordance with the order of the Commission in Print [insert print number].
- 3.2 The Ballot Agent shall maintain the privacy and confidentiality of employees employed by the employer and in particular must meet the obligations imposed by section 486 of the Act and Regulation 9.23 of Chapter 2 of the Workplace Relations Regulations 2006.
- [3.3 The Ballot Agent shall liaise with the employer in relation to the ballot, including for the attendance ballot. The location of the attendance ballot will allow for the privacy and confidentiality of employees to be maintained.]

#### **4. EMPLOYER TO PROVIDE LIST**

- 4.1 The employer must provide to the Ballot Agent a list of all employees who would be bound by the proposed collective agreement dealt with in the bargaining period numbered BP 2008/62.
- 4.2 The list of employees must be provided in the form of a Microsoft Excel compatible spreadsheet (in a file named according to the format "BP 2008/62 - Employee List").
- 4.3 The list of employees must include columns with the following names, and information as indicated by those column names for each employee in the list:
- Surname
  - Given Name
  - Address Line 1
  - Address Line 2
  - Post Code
  - Date of Birth
  - Home, mobile and work telephone numbers [where available]
  - Pay roll number

[note: address information may be provided with different column names if this is more convenient provided that there is a separate column for postcode]

- 4.4 This list must be provided by email to the Australian Electoral Commission at the address [ballot.lists@aec.gov.au](mailto:ballot.lists@aec.gov.au).
- 4.5 The list must be provided by 4pm on the next working day following the making of this order.

#### **5. ASU TO PROVIDE LIST**

- 5.1 The ASU must provide to the Ballot Agent a list of all its members who are employees of IBM Australia who work at the IBM Flightdeck, National Operations Centre, NSW and who do the type of work that would be covered by the proposed collective agreement dealt with in the bargaining period numbered BP 2008/62.
- 5.2 The list of members must be provided in the form of a Microsoft Excel compatible spreadsheet (in a file named according to the format "BP 2008/62 - Member List").
- 5.3 The list of members must include columns with the following names, and information as indicated by those column names for each employee in the list:
- Surname
  - Given Name
  - Address Line 1
  - Address Line 2
  - Post Code
  - Date of Birth [where available]
  - Home, mobile and work telephone numbers [where available]
  - Membership number

[note: address information may be provided with different column names if this is more convenient provided that there is a separate column for postcode]

- 5.4 This list must be provided by email to the Australian Electoral Commission at the address [ballot.lists@aec.gov.au](mailto:ballot.lists@aec.gov.au).
- 5.5 The list must be provided by 4pm on the next working day following the making of this order.

## **6. REVOCATION OR VARIATION**

The Commission notes that any person bound by this order may seek, at short notice, a revocation or variation of the order.

## **7. TERM AND DATE OF EFFECT**

This Order shall come into effect from [date] and shall remain in force for a period of 1 month.

BY THE COMMISSION

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

*Workplace Relations Act 1996*  
Section 451 (1)

In the matter of a dispute between

**Australian Municipal, Administrative, Clerical and Services Union (ASU)**  
**and**  
**IBM Australia**

**BP 2008/62**

**STATEMENT OF PAUL SLAPE, NATIONAL SECRETARY**

1. I, Paul Slape, National Secretary of the Australian Municipal, Administrative, Clerical and Services Union (ASU), Ground Floor, 116 Queensberry Street, Carlton South VIC 3053 in the State of New South Wales, affirm and say as follows:
2. I am the National Secretary of the ASU and I make this affirmation on its behalf. Except where otherwise indicated, I make this affidavit from my own knowledge. Where I refer to information provided to me, I believe such information to be true.
3. The Australian Municipal, Administrative, Clerical and Services Union is an organisation registered pursuant to the *Workplace Relations Act 1996* ("the Act") as amended by the *Workplace Relations Amendment (Workchoices) Act 2005*.
4. As part of my duties as National Secretary with the ASU, I have responsibility for representing the industrial interests of members of the union employed by IBM Australia.
5. IBM Australia employs members of the ASU in New South Wales at the IBM Flightdeck, National Operations Centre, NSW (Flightdeck).
6. IBM Australia currently employs ASU members at the Flightdeck on common law contracts and there is no current collective agreement that covers these members.

**Negotiations for a Union Collective Workplace Agreement**

7. The ASU lodged a Bargaining Period on 1 May 2008 with IBM Australia (BP2008/62)
8. On 1 May 2008 the ASU wrote to IBM Australia Chief Executive Officer, Mr Glen Boreham and provided the notification of commencement of bargaining period for a Union Collective Agreement by fax.
9. On 1 May 2008 Carl Harris, Organiser with the ASU NSW & ACT Services Branch (ASU NSW) wrote Mr Glen Boreham by post and by fax to request a meeting to commence negotiations for a Union Collective Agreement.

10. On 5 May 2008 Carl Harris, Organiser with the ASU NSW Services Branch again wrote to Mr Glen Boreham by fax and by email to request a meeting to commence negotiations for a Union Collective Agreement.
11. On 6 May 2008 the ASU NSW & ACT (Services) Branch received by fax a response from IBM Australia HR Partner, Graham Halls declining the request by the ASU NSW Services Branch for a meeting to negotiate a Union Collective Workplace Agreement.
12. On 23 June 2008 a meeting at Baulkham Hills of ASU members employed by IBM Australia at the Flightdeck resolved unanimously to authorise the ASU to apply for a protected action ballot.



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Paul Slape  
National Secretary

24 June 2008