

THE ACTIVIST



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LABOUR WILL PUT RECREATIONAL FISHERS FIRST

National is again putting big business ahead of hard-working Kiwis by cutting the snapper bag limits and increasing fish sizes while leaving the commercial quota untouched, Labour Leader David Cunliffe says.

"Going out on the boat and catching snapper for the family is an iconic Kiwi tradition. I get that. That's why Labour will put the interests of recreational snapper fishers ahead of fishing companies.

"Fisheries Minister Nathan Guy has done the opposite. He has made a cynical decision that solves nothing. It's another example of National's crony capitalism.

"If John Key and Nathan Guy think that reducing the bag limit and increasing size limits is a good thing for recreational fishers they are completely out of touch.

"Nathan Guy said he needed to ensure the sustainability of the Snapper 1 fishery. Instead he has raised the total catch allowance and failed to lift the stock to a higher sustainable level.

"To keep Snapper 1 sustainable everyone should participate. That's not happening under National. There no cut to the commercial take. The reality for recreational fishers who head out onto the water is a cut to their bag limit.

"Commercial fishers also have no change to snapper sizes. They can catch a 25 cm snapper whereas recreational fishers have to throw back anything under 30 cm. Again crony capitalism wins.

"It is no surprise National has caved into big business when there are such close links between the party and commercial fishing," David Cunliffe says.

TAIERI GORGE RAIL NEGOTIATIONS MEDIATION SCHEDULED FOR 25 SEPTEMBER

In our last Activist we reported that our negotiations for our members in TGR had reached an impasse. The RMTU and TGR have agreed to go to mediation on 25 September to try and resolve the matter.

On 6th September the RMTU Otago Rail Branch held its AGM, which was well attended by KiwiRail and TGR employees, as always. A motion of support for our members in TGR was passed unanimously by the Otago Rail Branch.

Should we not resolve matters at mediation the likelihood is that we will be calling on the wider union to support our brothers and sisters who work for New Zealand's second largest railway company. Please watch this space and make sure your fellow members are kept up to date.

KIWI RAIL INDUSTRIAL COUNCIL – MORE RESULTS

• *KiwiRail Networks Industrial Council Track Worker Ballot Result:*

At the close of nominations for the **KIWI RAIL NETWORKS INDUSTRIAL COUNCIL** there were two nominations received for the Infrastructure Track Worker Representative position and in accordance with Rule 42, a postal Ballot using the 'First Past the Post' system was to be conducted between **Eddie Dargaville & William Lanigan.**

Eddie Dargaville has contacted National Office and the National returning Officer and has withdrawn

This is for the information and guidance of RMTU members only!

his nomination and pledged his support to William Lanigan in the position.

William Lanigan Is Declared Elected Unopposed To the Track Worker Representative Position on the KNIC.

- **KiwiRail Networks Industrial Council Track Supervisors Ballot Result:**

At the close of nominations for the **KIWIRAIL NETWORKS INDUSTRIAL COUNCIL** there were two nominations received for the Infrastructure Track Supervisors Representative position and in accordance with Rule 42, a postal Ballot using the 'First Past the Post' system was to be conducted between **John Bannerman & Hopa Bell**.

Hopa Bell contacted National Office and the National Returning Officer and has withdrawn his nomination and pledged his support to John Bannerman in the position.

John Bannerman Is Declared Elected Unopposed To the Track Supervisor Representative Position on the KNIC.

- **KiwiRail PASSENGER INDUSTRIAL COUNCIL On Board Services Train Manager (Long Distance) Result:**

At the close of nominations for the KiwiRail **PASSENGER INDUSTRIAL COUNCIL** On Board Services Train Manager (Long Distance) there was one nomination received from Ms. Joanna Carr.

Joanna Carr Is Declared Elected Unopposed To the On Board Services Train Manager Long Distance Representative Position on the PIC.

- **Interisland Industrial Council Ferry Operations (Outside South) Representative Result:**

There were two nominations received for the Ferry Operations (Outside South) Representative position on the **INTERISLAND INDUSTRIAL COUNCIL** and in accordance with Rule 42, a postal

Ballot using the 'First Past the Post' system was conducted between **Max Edwards and Vernon Steele**.

Ballot Papers Issued	23
Ballot Papers Returned	17
Max Edwards	6
Vernon Steele	11
Invalid	0

Vernon Steele Is Declared Elected To the Ferry Operations Outside South Representative Position On The IIC

- **KiwiRail Passenger Industrial Council Scale 1 Representative Ballot Result:**

There were two nominations received for the **KIWIRAIL PASSENGER INDUSTRIAL COUNCIL** Scale 1 Representative position and in accordance with Rule 42, a postal Ballot using the 'First Past the Post' system was conducted between **Giovanni Giambianco and David Sharma**.

Ballot Papers Issued	62
Ballot Papers Returned	22
Giovanni Giambianco	4
David Sharma	18
Invalid	0

David Sharma Is Declared Elected to The Scale 1 Representative Position On The PIC

Hearty congratulations to those RMTU Delegates who have been elected and thank you to those who participated in the ballot process.

RMA REFORM AT ANY COST? DAM PROPOSAL COULD 'KILL' TUKITUKI RIVER

Leaked documents reveal the Department of Conservation's original submission on the plan change for the Ruataniwha Dam was far more critical than a subsequent one, say Labour's Environment and Conservation spokespeople, Maryan Street and Ruth Dyson.

"Instead of improving water quality as the Hawke's Bay Regional Council says it would, the proposal - to control only phosphate levels in the Tukituki River, and allow for a substantial increase in the level of nitrates - could 'kill' the river," said Ruth Dyson.

"In its original submission the Department of Conservation says the plan poses threats to water quality, habitats and fish species and that reversing damage caused by the proposal would present real problems. That view is backed up by academic analysis as well, yet much of that advice was missing from the final, truncated submission."

The Tukituki catchment is ranked as nationally significant with 18 native fish species present, eight of which are considered to be "at risk" and "declining".

"The estuary and associated wetlands are a 'Recommended Area for Protection' under DoC's Protected Natural Areas Programme, and yet no work has gone into the Plan Change to assess the impact of the dam on the estuary and coastal waters," Ruth Dyson said.

Environment spokesperson Maryan Street said issues such as this highlighted the problems with Amy Adams' plans to neutralise the Resource Management Act.

"Her aggressive paring back of the RMA so that environmental concerns don't get in the way of development is explained in the light of the leaked documents.

"In the face of such a paucity of information in the proposal, both scientific and financial, the government would be irresponsible to proceed with this scheme. More contestable advice and independent assessment is needed before this project can be advanced.

"Irrigating farm land for more intensive dairying is being prioritised over careful stewardship of our natural resources.

"That appears to be the Minister's plan for the RMA - take down all barriers to economic development, despite the risks to the environment," said Maryan Street.

INFLATION RATES

Recently our official inflation rate came in below 1% at 0.9%. This is good but it hard to reconcile when electricity, rates and insurances keep going up. This figure does compare well with other jurisdictions in the OECD, such as Australia at 2.5%, the UK at a high 2.9%, the Eurozone at 1.6% and the USA at 1.8%. All indications, from our Reserve Bank, are that inflation is likely to remain low in this country for the short to medium term. This is good news for those with mortgages.

CT SITES – KIWIRAIL – PAY AND PROGRESSION PROGRESS

The RMTU has been very direct in expressing our dis-satisfaction at the unwarranted and unjustifiable delay to the full implementation to the CT Site Pay and Progression system as agreed in 2011.

KiwiRail apologised for the delay and in an effort to move things along advised they have retained an independent person to conduct the assessments. Chris Gledhill (external facilitator) will be available to commence the training and assessments from week commencing 16 Sept.

It was discussed and agreed that;

- The training and assessment materials would be piloted at Palmerston North and Te Rapa. (This has been done and our Rep Joe Harding reports that the session at Te Rapa went well.)
- The two members currently seeking the CT Delegate position on KIC will attend the Palmy and Te Rapa meetings as follows :- Joe Harding to attend Te Rapa and Antoon Whiu to attend Palmerston North
- In advance of these meetings the CT Operators will be given the Grade 2 and 3 modules to review and familiarise themselves with.
- Timelines for the assessment of the pilot sites will be determined ideally from these meetings
- KR has given an undertaking that future fulltime CT Operator Employees will be engaged on Grade 1.

- If a Temporary Employee or ex Agency Employee is offered fulltime employment KR will for the purposes of determining their entry Grade recognise their service whilst on the rail CT site.
- If you are on Grade x, and on a service basis qualify for Grade y, you will be assessed accordingly.
- Any consideration of abolishing the Container Terminal Team Leader Assistant roles (Pay Code 47170) will be initially 'parked'. It is agreed that if the Company wishes to pursue this matter in the future it can be put forward as a claim for the 2014 MECA discussions.
- It was agreed that Employees who successfully pass their assessment will have the increase in pay rate backdated to 1 January 2011.
- From an on-going assessment perspective, consideration will be given to creating appointed Assessor roles from the pool of existing Container Terminal Team Leaders. It is considered that these duties would be undertaken on a temporary as required basis with the Employee being recompensed in line with current 'Minding' provisions for "other than loco" sectors as prescribed within the MECA. This remuneration will apply only when they undertake these assessment duties.
- It is agreed that Assessors will not assess their own staff or terminals.

ROTTEN PERUVIAN SLEEPERS

As members know this is one of KiwiRail's more spectacular own goals. There are thousands of the things out there, management doesn't know exactly how many, and they need fixing. Before they can be fixed the Company needs to find out where they are.

Back in mid-June the Company told us they were thinking of contracting the identification and location work out. That's not the replacement – it's just finding the things. This would take several teams a period of six months to do. The RMTU said we'd prefer that the work was done by in

house staff, employed on fixed term agreements if they had to 'staff up', rather than using contractors.

By the beginning of August nothing has happened and then we get told that it's now 'urgent' and that's another reason for going 'to the market' and contracting out. We've questioned the Company about this and we've received no plausible explanation for the delay and are therefore forced to the conclusion that it's a mechanism to justify contracting out. In other words, do nothing thereby manufacturing a 'crisis' out of what's already a big problem.

We also understand that management mentioned the RMTU in the context of this issue at the recent Structures Conference in Wellington. For the avoidance of doubt, we want to make absolutely clear that the position of the RMTU is that this work should have been done in house by directly employed KiwiRail staff. We believe that this was a viable option had the Company acted in a timely fashion back in June.

We have a KNIC on Monday 16 September and this item will be discussed.

ITF URGES ACTION OVER CONTAINER WEIGHTS

The ITF is calling on governments and industry bodies to back a proposed amendment that will tackle the dangers posed by unweighed or mis-declared shipping containers. The amendment – to the existing Safety of Life at Sea Convention (SOLAS) – will be tabled at a meeting of the IMO (International Maritime Organization) sub-committee on dangerous goods, solid cargoes and containers beginning today, Monday 16 September. The meeting will decide if the weighing of packed shipping containers will be made mandatory.

The ITF (International Transport Workers' Federation) has been lobbying for nearly a decade for a compulsory international system of container weighing to be introduced in ports. Currently there is a reliance on self-regulation by shippers.

The ITF proposal stipulates that there should be an international law requiring mandatory weighing of loaded containers, a process in place to address misdeclaration of container

weights, and that ships' masters should be able to refuse to load un- or misdeclared containers.

The ITF amendment is supported by the United States and Danish governments as well as industry bodies including The World Shipping Council (WSC), and The Baltic and International Maritime Council (BIMCO). The ITF is urging other country and industry representatives to demonstrate their commitment to worker and public safety standards by backing the SOLAS amendment.

ITF president and chair of the ITF dockers' section Paddy Crumlin explained: "This is a key issue for transport workers worldwide. We estimate containers which are declared as one weight but in reality are substantially lighter or heavier, may be in the region of 20 per cent of cargo. That presents a major health and safety risk to dockers loading and unloading in ports, to seafarers onboard cargo vessels, and to drivers transporting containers on the roads."

He continued: "But this isn't just a worker issue. When a lorry jackknives because it can't handle the burden of the container, if a cargo ship splits in two because it's been overloaded, when port equipment and infrastructure is prematurely worn down because of overweight containers then you have a major issue for the public, for the environment and for shipping companies."

He concluded: "It is time for this issue to get the weighty response it deserves

and we want to see governments and industry players get behind the SOLAS amendment so that an appropriate response to the issue can be delivered, via the IMO."

MIDLAND LINE & COAL ROUTE INFRASTRUCTURE & ENGINEERING HOURS OF WORK

There is a revised train timetable meaning very few trains run on these routes on Tuesdays (other than exceptional circumstances - which seem to have been happening rather a lot lately). KiwiRail wants to maximise work on the track on this day.

The approach the Company has agreed to is to discuss the options for a roster to increase productivity whilst remaining within the confines of the hours of work clause in the MECA. Very few of the Canterbury and West Coast Track Staff are so called 'flexible workers'. The other issue is that of driving hours.

These discussions will be done collectively to see if we can sort out a method that works for everyone. Your delegates and South Island Organiser John Kerr will support and assist you.

West Coast I & E Manager Liam Fay is putting together a draft proposal but he has made it clear that he wants members' views as he accepts this will not work unless the membership is committed to making it work.

That said, we did get a clear signal during our discussions that the Company is looking at addressing hours of work for track staff in the forthcoming bargaining next year.

Forewarned is forearmed!

HISTORIC JUDGEMENT

The Employment Court last month issued an historic ruling on women's pay that could affect tens of thousands. The court said that women in female-dominated industries can now compare themselves to men in other industries requiring similar skills when pushing for pay equality. Employers had argued that women workers should only be allowed to compare their pay with men in the same industry doing similar work.

The court said the employers' interpretation of the law would "simply perpetuate discrimination in rates of pay to women". The court said female-dominated industries would continue to pay women poorly simply because few men shared their low wages.

The ruling involved Lower Hutt aged-care worker Kristine Bartlett, who was supported by the Service and Food Workers Union. But she must go back to court to prove that her employer, TerraNova Homes and Care, paid her less because she was a woman. The aged-care sector in New Zealand employs more than 33,000 people, 92 per cent of them women. TerraNova care-givers, who consist of 106 female and four male

employees, receive between \$13.75 and \$15 an hour.

The RMTU congratulates the SFWU and their counsel Peter Cranney for a great victory!

EMPLOYMENT RIGHTS CHANGES UNDER THE NATIONAL-LED GOVERNMENT SINCE 2008

Employment Relations Amendment Act 2008

For workers employed by small and medium enterprises of fewer than 20 workers the employer could use an employment agreement which removes the right of appeal against unfair dismissal in first 90 days no matter how unjustified the dismissal. No reason need be given by the employer for the dismissal.

Repealed the right of an employee to bring a personal grievance if the employee is treated on a different basis as a result of being a member of Kiwisaver.

Taxation (Urgent Matters and Annual Rates) Act 2008

Reduced and capped the KiwiSaver employer contribution at 2% and repealed the employer tax credit.

Removed the requirement that compulsory employer KiwiSaver contributions must be paid on top of gross salary or wages.

Employment Relations Amendment Act 2010

Extended the 90 day provisions (see above) to all employers including those with 20 workers and above.

Reduced rights of union access to workplaces. Employers can effectively refuse access for at least a period of time.

Removed reinstatement as a primary remedy for dismissal. This makes union delegates and activists vulnerable to dismissal as the employer is less likely to have to reinstate the worker even if the Court finds the dismissal unjustified.

Broadened the range of reasons why an employer could justifiably dismiss a worker by changing the test from what a reasonable employer 'would' have done, to

what a reasonable employer 'could' have done.

Holidays Amendment Act 2010

Requires proof of sickness or injury from first day of illness or injury (at the employer's expense). This was specifically aimed at meat workers but affects all. It portrayed workers as trying to take 'sickies'.

Allows workers to trade their fourth week of annual leave for cash. This could impact on low income workers who cannot afford holidays.

The Employment Relations (Film Production Work) Amendment Act 2010

Effectively removed the right of all workers in the film industry to query whether their contract was in fact a contract of employment (i.e. an employee) rather than a contractor. This means that all workers in this industry have less protection than other workers who could argue that because of the pattern of employment as a contractor they are in fact an employee and should have the rights that flow from that such as the minimum wage, holiday pay and so forth.

Taxation (Annual Rates and Budget Measures) Act 2011

Removed the Employer Superannuation Contribution Tax (ESCT) exemption on employer contributions and makes it compulsory for all employers to deduct ESCT at the individual KiwiSaver's applicable progressive ESCT rate. The Act also reduced the rate at which the Member Tax Credit (MTC) is paid to 50c for each \$1 contributed by members to the new maximum amount of \$521.43 per year.

Employment Relations (Secret Ballots for Strikes) Amendment Act 2012

This requires union rules to provide for secret ballots for any strike. It does not require any such rule for Boards of Directors in a lockout. Unions generally support secret ballots so not a major issue but another example of interference in union affairs.

Minimum Wage (Starting-out Wage) Amendment Act 2013

Reduced the minimum wage to 80% of the adult rate for workers aged 16 to 19. For a 16 or 17 year old this would apply for any 6



month period from when they start a job. For an 18 or 19 year old this would apply for a 6 month period if they had been on a benefit for 6 months continuously before commencing the job. This means that an 18 year old who had previously worked for 2 years but was then on a benefit for 6 months would be paid at 80% of a new worker of 18 years of age with no experience at all.

Employment Relations Amendment Bill 2013

Removes the duty to conclude in collective bargaining. This also removes the wording in the Act that prevents employers from specifically refusing to collectively bargain as they prefer individual agreements. This will have a major impact on collective bargaining as it means employers can 'surface' bargain and go through the motions. The result will be fewer collective agreements.

Allows a 'free hit' period when bargaining is deemed concluded. If the Court deems bargaining as over there is a 60 day period when the union cannot initiate bargaining, the existing collective agreement is deemed to be gone, and the employer can therefore promote individual agreements. They can also at that time (as they are not covered by good faith bargaining rules) able to restructure. That is do what Ports of Auckland wanted to do and sack the workers in the middle of bargaining.

Equalises timeframes to initiate bargaining. This makes it harder for unions to determine the scope and form of the bargaining.

Opt out of multi-employer collective bargaining. This is a significant change which will allow employers to opt out of bargaining on a multi-employer agreement. It could have a big impact in the state sector.

Repeal of 30 day rule for new employees. This will allow employers covered by a collective agreement to employ workers on terms inconsistent with the collective. The rule now is that even non-union workers must be paid at least the collective agreement rates for the first 30 days while they find out about the workplace, get some advice and so on. This will also make

it easier for employers to undermine the collective agreement and employ casuals on lower rates. The Cabinet Paper specifically mentioned that this will permit wages lower than the collective agreement.

Removes automatic entitlement to meal and refreshment breaks. It removes the automatic entitlement but says the employer must offer compensatory measures. But if the employer and worker cannot agree on those measures in terms of other breaks then the employer unilaterally decides.

Removes protections in transfer of business for workers where new employer is an SME. This hugely weakens the protection of terms and conditions for workers in a transfer. This applies to a specified group of workers under what is called Part 6A. It will give a competitive advantage to small employers and encourage larger employers to franchise.

Changes to strike notice requirements. This goes way beyond current requirements. At the moment there are strict notice requirements for essential industries. But now there will be very precise notice requirements for all strikes of whatever duration and form. The risk of strikes being unlawful for a technical reason and subjecting workers to being sued increases. So strikes will reduce.

Pay deductions for partial strikes. This means an employer would be able to deduct an estimated amount of pay where (say) workers decided as a form of strike action over bargaining that they would not answer phones for a period. The union could challenge the rate of deduction through a legal process. However the employer could instead opt for a standard 10% deduction. This will discourage workers from taking even limited strike action. The employer can already suspend striking workers or lock them out so this just adds to the actions employers can take in a strike situation.

Amendments to the good faith disclosure of information provisions in the current bill that means employers can legally withhold evaluative material that formed the basis of an employer's decision to dismiss the employee, either on the grounds of redundancy or for any other cause.

Other

Changes to Minimum Wage decision process – to reduce the extent of consultation except every fourth year and to confine the issues under consideration to cost of living and effect on employment but remove equity considerations except for every fourth year.

The ability to file ACC claims in relation to hearing loss was reduced.

National did not support the Holidays (Full Recognition of Waitangi and Anzac Days) Amendment Act 2013 but it was passed. They therefore opposed an improvement.

National support a private member's Bill (Employment Relations (Continuity of Labour) Bill) which would allow employers to bring in other workers (who do not normally do that work) when there is a strike. This is designed to weaken bargaining strength of workers and reduce the effectiveness of strikes.

National has however been prepared to introduce positive changes on foreign charter vessels, health and safety and migrant worker rights.

HUMAN RIGHTS COMMISSION SAYS EMPLOYMENT RELATIONS AMENDMENT BILL BREACHES HUMAN RIGHTS

The Human Rights Commission ('the HRC') has made a very strong submission on the Employment Relations Amendment Bill currently before the Transport and Industrial Relations Select Committee. The HRC's submission demonstrates increasing official and community opposition to this legislation (and echoes concerns raised by other Government departments in the policy development process). The submission is available

here: <http://www.hrc.co.nz/2013/employment-bill-inconsistent-with-international-human-rights-obligations>

Jeff Sissons, General Counsel at the New Zealand Council of Trade Unions- Te Kauae Kaimahi ('the CTU') says that "The Employment Relations Amendment Bill will lower wages for New Zealand workers through the undermining of collective

bargaining and removal of protections for vulnerable workers. In our submission, we have noted that several the changes to collective bargaining and union rights breach New Zealand's international commitments to respect workers' rights (including rights guaranteed by the International Covenant on Economic Social and Cultural Rights and International Labour Organisation ('ILO') treaties)."

The HRC is the Government body that monitors New Zealand's compliance with human rights. In this case, they have emphasised the fundamental nature of rights at work and found that proposed changes to collective bargaining and union rights should be rejected as inconsistent with New Zealand's international obligations. The HRC comments that "New Zealand is falling short of international benchmarks [developed to measure Decent Work], a situation that will be exacerbated by the passing of the Bill" (p10). The HRC also notes that in light of the fact that New Zealand's labour market is one of the most deregulated in the developed world "it is difficult to understand the justification for deregulating the New Zealand labour market even further, while at the same time breaching international obligations to protect employee's rights" (p 13).

Jeff Sissons says "It is heartening that the experts at the HRC agree with our view that these changes are a breach of New Zealand international obligations and will make things worse for workers. We think that the proposed changes will bring New Zealand into disrepute internationally as occurred in the 1990s where the ILO was sharply critical of the Employment Contracts Act 1991's brutalist approach to employment relations. The HRC has made a number of other useful suggestions in their submission and we urge the Select Committee to consider it carefully.

In our submission, the CTU is calling on the Government to scrap the changes relating to unions and collective bargaining. We have held rallies around the country attended by thousands of workers concerned by the changes and many thousands of workers have also submitted to the Select Committee. More information about the changes is available at: <http://www.union.org.nz/whycutourpay>

CHRISTCHURCH FAIRNESS AT WORK RALLY AND THE CAMPAIGN AGAINST THE EMPLOYMENT RELATIONS AMENDMENT ACT BILL

Over 1200 union members from across the movement attended the rally on 29 August at Wigram Air Force Museum to protest against John Key's attack on workers. The RMTU was there in force as we'd issued notice of a s26 Stopwork meeting under the Employment Relations Act- one of the few rights we'll have left if the National Government's proposed changes to employment law go ahead.

Members heard from CTU President Helen Kelly, EPMU Assistant National Secretary Ged O'Connell and delegates from the Service and Food Workers Union.

South Island RMTU Organiser John Kerr also spoke, putting the attack on workers' rights in a global context. He reminded members that since the Global Financial Crisis free market capitalism has failed and that there is a growing tide of resistance to government policies that try and make ordinary people pay the price by attacking work rights and slashing public spending. He finished by urging members to demand our leaders escalate the campaign - we're stronger than many of us realise. We have the same level of union membership as France. Unionised labour in New Zealand works the railways, the wharves, the hospitals, the schools, the meat works and the dairy factories. It flies the planes, collects the taxes, delivers the mail and fights the fires.

On 6 September, the Parliamentary Select Commission on Industrial Relations heard submissions on the Bill in Christchurch. The overwhelming majority of submissions were against the government's planned changes.

Two submissions in particular received good coverage on Radio New Zealand. One by a hospital cleaner described how the her employer had changed nine times in the 20 years she'd been cleaning Christchurch hospital and that, at a time when she was dealing with the impact of the earthquake on her home and her kids' schools, it was

only the protection of vulnerable workers in the Act that had made her terms and conditions of employment secure. Now National was going to remove that protection. The second was a social worker in mental health who described how without regular breaks people's judgement could be impaired resulting in poor decisions being made with dangerous consequences. Once again it's John Key's Government that wants to take away the legal right to tea and meal breaks.

KR INDUSTRIAL COUNCILS

The KiwiRail Industrial Councils have governing terms of reference signed by the Union and KiwiRail. They are intended to be the escalation centre for industrial issues which arise during the course of the employment relationship on a day to day basis which have not or cannot be resolved at a local or branch level or have national significance.

Nominations were called for RMTU Representatives on the following Councils:

- **KiwiRail Freight Industrial Council**, and
- **KiwiRail I&E (Networks) Industrial Council**.

Union policy as determined by Annual Conference requires that any member of the Union's National Management Committee (NMC) who is eligible for nomination to a position on an Industrial Council shall be deemed to have been elected to that position.

2ND PERSON (LOCO) TRAINING

Rumors abound within KiwiRail Freight that FRONZ members are to be trained in 2nd person duties on trains. The Union has approached KiwiRail Freight and the Training Manager Colin Vickery has emphatically denied that any training of FRONZ members is occurring. Vickery's exact words were "I have not been approached about FRONZ people". HR Manager Chris Hancock also stated in an email "We are not training FRONZ people".

However the rumors continue and it appears that I&E have been the Division to undertake the training. It is reported to us that 6

FRONZ members were trained by an ex Wgtn LE I&E trainer and that they did a road based familiarization run from Plimmerton to Fielding. There is a smell in the air about all of this and it is rotten.

A meeting is being arranged for next month which will see the three parties in the same room. It will be interesting. **Meanwhile it is time for all RMTU member Loco operating staff to pull together and to standby for a call for unity and solidarity around this issue.**

No road knowledge trips for these 6 or any others are to occur in any location within NZ until further notice!

Operating trains on the KiwiRail network is our work and no others!

ARE YOU A TRAINED H&S REP?

The RMTU is currently updating its membership database to identify trained H&S delegates. We are able to identify all members who have been trained through the NZCTU training programme however we are not able to identify any member who has been trained by another training provider. For example EMA employer sponsored training courses.

We request that any member who has been trained as a workplace H&S rep please email your Name, Date of training, Training provider, training type ie. Stage1 or Stage 2 etc, employer and workplace. Send your email to kfletcher@rmtunion.org.nz

A RECENT EMPLOYMENT LAW CASE - WORK TRIAL

Salad Bowl Ltd v Howe-Thornley. To summarise, Howe-Thornley ("H") was asked to undertake a work trial for a few hours over two days. She wore a company t-shirt, prepared food, served customers etc. On day two there was a \$50 shortfall which, without any investigation or process, the owner of the company formed the view had been taken by H. There were various text exchanges, including "Money missing from till is reason you don't have a job!".

The Authority held that H was an employee and that she was unjustifiably dismissed,

awarding \$1,215 lost wages, and \$5,000 compensation.

The Employment Court has now also held that H was an employee and that she was unjustifiably dismissed, concluding:

"[51] Was the defendant "a person intending to work" and therefore an employee? The evidence establishes that she had been offered, and accepted, work as an employee, even if this was for as short a period as several hours as was the plaintiff's original intention for the employment trial, and then followed by a period in which the plaintiff's assessment of the defendant's candidacy would be considered and its decision communicated to the employee. More than that, the defendant performed work for the plaintiff that contributed to its commercial enterprise."

This case is a reminder of the importance of taking care around recruitment and work trials. Also an individual may be an "employee" under employment law even if they have not yet started work as the definition of employee also covers "a person intending to work".

FALL IN ACC LEVIES SHOWS HARSH TREATMENT OF CLAIMS UNJUSTIFIED

"The 15-17 percent fall in ACC levies proposed by ACC for the 2014/15 year with further reductions to follow, shows that cuts in entitlements and harsh treatment of injured people making ACC claims were unjustified," says CTU Policy Director, Bill Rosenberg. "The Government should restore the entitlements it withdrew in 2009 and consider increasing entitlements rather than simply continue to reduce levies."

"We are also deeply concerned that the proposal to increase employer discounts for having low numbers of claims will put increased pressure on their employees to not report claims, report them as non-work injuries, or return to work too early. International research on experience rating and day-to-day experience of union members bears this out. This proposal should not proceed before a significant reconsideration of the scheme which aims to put most of the emphasis on preventative

measures such as good training, worker participation and sound management systems, plus robust systems for detecting and taking action against this kind of rotting. Such a review should be in close consultation with the new Health and Safety Agency, WorkSafe, and be consistent with the principles recommended by the Independent Health and Safety Taskforce. We are not convinced that this kind of scheme can be run safely for workers."

"On the other hand, we are very pleased that ACC is significantly increasing its funding of injury prevention. The forecast for 2013/14 is for \$40 million to be spent on this after seven years of falling spending despite New Zealand's very poor injury and occupational health record. That's an increase from \$22.4 million in 2012/13. We hope that this continues to increase, and is used in joint programmes with WorkSafe," says Bill Rosenberg.

"The claim that ACC was in deep financial trouble has been shown to be political spin used to justify cuts in entitlements and a niggardly approach to treatment and compensation of people with injuries. There was never any reason for the severe reductions. The short term effects of the global financial crisis on investment returns and interest rates were used to justify a long term cut in entitlements and treatments."

The low and falling levies should also put an end to any suggestion that the private sector could do this better. The Government should publicly announce that its deeply faulted proposal for "competition in the Work Account" has been withdrawn.

The CTU will be considering these matters further in making its submission to ACC.

INTERNATIONAL NEWS

- The AFL-CIO Convention, slated for September 8-11 in Los Angeles, is expected to approve the return of the 1.3 million member United Food and Commercial Workers (UFCW). The UFCW was among the key unions who broke away from the AFL-CIO in 2005 to form the Change To Win coalition. UFCW President Joe Hansen chairs

Change To Win, but the union has retained close ties with the AFL-CIO. The return of the UFCW is projected to boost the national AFL-CIO's membership by almost 10 percent and provide an infusion of resources. The UFCW's dues, based on current per capita funding, will provide an additional \$10 million annually to the federation although media reports indicated the union may be offered a discount on dues payments.

- Apple, Inc. was rocked by new allegations that its Chinese equipment manufacturers continue to violate workers and human rights. China Labour Watch, a labour rights group, accused Pegatron Corp., a Taiwanese company that makes iPhones in China, of withholding employees pay, forcing workers to work excessive overtime and other abuses. Conditions in Chinese factories that produce iPhones and other popular Apple products have been under scrutiny after complaints about labor and environmental violations by another Taiwanese supplier, Foxconn.
- United Kingdom's Communication Workers Union (CWU), which represents more than 100,000 postal staff, expressed outrage over a 33 per cent pay raise to Royal Mail chief executive Moya Green which brought her income last year to almost 1.5 million pounds. The information was released as a heated debate is taking place in the UK over plans to privatize Royal Mail. The union charged Greene's pay was "imitating private sector excess" at a time when workers faced painful cuts in pensions and hours. Dave Ward, CWU deputy general secretary, said: "Ordinary postal workers will be appalled at this excessive, inflation-busting increase in bonuses for Moya Greene.

AUCKLAND RAIL DELAY WILL COST \$100 MILLION A YEAR

An Auckland Council paper shows that the National Government's delayed timetable for building the Auckland City Rail Link will cost the city \$100 million a year, the Green Party said today.

Green MP Julie Anne Genter tabled the Auckland Transport Committee document in Question Time today. It states that by 2021, the existing public transport infrastructure in central Auckland will be at or over capacity and that delaying the opening of the City Rail Link beyond then will cost \$100 million a year. For the project to open in 2021, construction needs to begin in 2015, as the Green Party and Auckland Council wants. The National Government doesn't plan to begin construction until at least 2020.

"The Government needs to get on board with Auckland and get the City Rail Link built. Delaying construction until 2020 will cost Auckland \$100 million a year," said Green Party transport spokesperson Julie Anne Genter.

"The report highlights that by 2021, the existing rail and bus network in Auckland's city centre will be at full capacity, hence the very high costs of not building the City Rail Link earlier.

"The National Government's plan is to wait for congestion to reach a critical point before acting.

"A smarter way to manage Auckland's transport infrastructure would be to maximise the effectiveness of our rail and road network. This means starting the Auckland City Rail Link in 2015, which will more than double the productivity of rail and carry the equivalent of 12 motorway lanes of traffic.

"By building the City Rail Link on time, we not only save half-a-billion dollars, we also provide certainty for businesses and save Aucklanders up to half-an-hour on their journeys across the city.

"If the National Government's commitment to the City Rail Link was real, and not just a hollow, unfunded promise, it should commit to a 2015 start date for construction, saving Auckland \$100 million a year," Ms Genter said.

Please note:

This Sunday, Julie Anne Genter will be hosting an event bringing together MPs, local body politicians, and candidates to unite and push for the construction of the City Rail Link to begin in 2015.

When: Sunday 22nd September, 3:30PM

Where: Behind the glass section of Britomart train station, Auckland

WORKER PARTICIPATION

Worker participation in health and safety will be strengthened. There will be a new duty on employers to involve workers in health and safety and protect them from discrimination for raising health and safety matters. Employers will also have to consult with H & S reps and give them paid time for training. The reps will also have new powers - to direct unsafe work to cease and issue provisional improvement notices (PINs).

