

THE ACTIVIST



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RESULT OF CALL FOR NOMINATIONS – NATIONAL PRESIDENT

At the close of Nominations there was only one candidate. Tauranga Container Crane Operator Aubrey Wilkinson is therefore declared re-elected unopposed for a further 2 year term of office.

Aubrey's re-election is a sure sign that he has succeeded in his stated desire when elected in 2011 and 2013. At that time he said "I'm keen to get out and listen to what our members' priorities are, and bring our diverse membership along the rail industry supply chain even closer together," he said.

We all congratulate Aubrey on his re-election.

Howard Phillips
National Returning Officer

CALL FOR NOMINATIONS – GENERAL SECRETARY

In accordance with Rule 24 of the Rules & Standing Orders of the Rail & Maritime Transport Union nominations are hereby called for the full time position of General Secretary.

Nomination Forms are available from the RMTU National Office by contacting Julia on 04-499-2066, fax 04-471-0896 or julia@rmtunion.org.nz.

Nominations shall be in writing and contain the signed consent of the candidate, and be proposed and seconded by financial members (Rule 1) of the Union.

Nominations must be received by the National Returning Officer at the National Office of the Rail & Maritime Transport Union, PO Box 1103 Wellington 6140 no later than 1700hrs. on Monday 17th April 2015.

The term of office is 4 years (Rule 24.1) and the duties are as contained in Rule 29 of the Union's Rules and Standing Orders.

For the information of members it is advised that the incumbent will be seeking re-election.

Howard Phillips
National Returning Officer

HEALTH AND SAFETY, AND ROSTERS, UNDER ATTACK

Currently within KiwiRail Freight a merciless struggle is being waged between the company and organized labour. A roster optimization project is being undertaken by KiwiRail which is seeing longstanding working arrangements and "jobs" or shifts being reviewed and systematically abolished. "This is impacting significantly on the sociability of the rosters, work life balance of workers and their families and goes beyond what is fair and reasonable, by a ruthless screwing of the scrum by Freight" says Wayne Butson.

The Freight Rail Operating Manual prescribes the rostering rules for Locomotive Engineers and for yard staff within Freight. These rules have been developed over time by negotiation and joint initiatives looking at the effects of shiftwork and sleep patterns. Dr Phillipa Gander a renowned international expert on the topic did a major amount of this study work during the 1980's. This work



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

saw a manual written and protections put in place, which made some of the insanely bad rostering practices in place at the time unlawful. The Manual (and other contributing factors) was revisited again as circumstances arose, for example following the fatal Waipahi head on train collision in 1999.

The latest round of roster optimisation sees rosters being constructed on the basis of taking work within the roster up to the absolute maximum and minimum tolerances and the total removal of any and all recognition of the need for rosters to have a mix of work types and hours of work. In our view KiwiRail's approach smacks of looking for the cheapest option. In doing so, the health, and core employment philosophy in our MECA, is being disregarded. A recent roster review in Wellington saw a very good and productive daytime shift removed from the master roster to give but one example. How does this fit with providing a healthy and safe workplace? How does this fit with the agreed and core philosophies in our MECA, which includes:

- Providing a healthy and safe workplace; and
- Recognising employees' contributions and family responsibilities.

In the recent MECA the parties agreed to form working groups to review both the freight and passenger Rail Operating Manuals. What should have been a co-operative working party will now be a battleground of positional bargaining by either side, we are picking. In short the job just got much harder.

The actions of KiwiRail represents a company turning over every stone to find savings – at any cost! That includes at the cost of your health and safety. In our view the Government has given very clear instruction to the KiwiRail Board to cut costs and is starving the company of funds (yes, money has gone into rail but if you take out the Auckland and Wellington

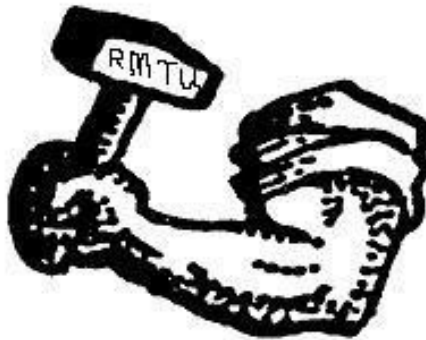
metro systems, there is not much left) and as labour is the largest fixed cost of the business you can rest assured that YOU will be in the cross hairs at some stage.

The question is do we roll with the punches or do we fight hard to preserve your health and safety? Rail history shows that the latter is the way to go. The RMTU believes that it is time for members to think about whether they just curl up into a ball whilst their being kicked or whether you take a serious look at your health and safety, and what these attacks on your rosters mean for your health and safety.

There are many clauses and rights that you have via the Collective agreement and the ROM that you can choose to implement and enforce and which help you to be able to perform your role and duties in a healthy and safe way. To name a few provisions in existence, there is;

- Maximum Footplate time and not shift length
- Maximum shift length and being back booked off in the depot by your rostered book off time
- Short notice shift change is by agreement
- Contact and utilisation times adherence for standby shifts
- The choice of working extra work periods
- The choice as to when you elect to take alternative days (lieu days)
- Meal break at the mid point of the shift and 2 ten minute breaks at the quarter and three quarter points of the shift
- Electing to spend a Stat Day with your family rather than working as it is your choice

Fatigue kills. Rosters without balance, kill. A workplace that fails to recognise health and safety, and which fails to recognise employees' contributions and family responsibilities, is not the workplace KiwiRail has committed to provide under the MECA.



You have a responsibility to yourself, and your families, to ensure that the protections in the MECA, which form part of you being able to work in a healthy and safe way, are complied with. The RMTU will not stand by and see your health and safety eroded by these attacks on rosters. One of the solutions is to make sure that you utilise the other rights you have, including those above, as part of ensuring you are doing all you can to avoid fatigue, and to work safely and return home to your families after work each and every time.

The health and safety of our members is the paramount concern of the RMTU. It is time when we must all pull together.

PAID PARENTAL LEAVE INCREASES - BUT MORE WORK NEEDED

Workers are pleased that, from today, paid parental leave increases from 14 to 16 weeks, but unfortunately New Zealand is still well behind the support that other countries offer to new parents, the Council of Trade Unions said.

"The OECD average is 22 weeks paid parental leave, and the amount paid to workers overseas is generally higher. In New Zealand the maximum weekly paid parental leave payment is currently \$504.10 before tax, which is just 85% of the minimum wage," said Sam Huggard, CTU Secretary.

"Union members will continue campaigning for better paid parental leave – through nationwide campaigns but also through influencing workplace policy and in collective agreement negotiations."

"Paid parental leave is a big issue for families and especially for women union members who constitute 58% of union membership. More than a third of workers who are covered by a collective employment agreement have parental leave provisions that are above the legal minimum. These union members and their unions lead the way in good paid parental leave provisions."

"This is evidence of the power of workers coming together to negotiate their terms and conditions together, but we need a much more supportive state provision for all workers including those who currently don't have access to a union," Huggard said.

"2006 was when the Government last researched New Zealanders use of paid parental leave. That was 10 years ago now and we believe that it's time to update the research. In 2006 the evidence was that new parents were returning early to work because of financial pressures. That situation is likely to have worsened."

"Our paid parental leave provisions still remain low by international standards and though there is a shift in the right direction, it is nowhere near as good as it needs to be." Huggard said.

PORTS FORUM

The Union's Ports Forum is being held in Wellington 9 & 10 June 2015. Port Branch Secretaries are asked to formalise their representation and to advise numbers of attendee's to National Office via julia@rmtunion.org.nz as soon as possible to assist with Venue and Accommodation planning.

The national Union will bear the cost of 1 rep from each port branch to the Forum. Additional participants are at the branch expense.

Suggestions for agenda items are encouraged from branches, please forward to pspanswick@rmtunion.org.nz.

WORKERS MEMORIAL DAY – 28 APRIL

International Workers Memorial Day is 28 April 2015. The day is about remembering those workers, especially RMTU members, who have been killed whilst at work.

In 2015 the theme for the day is "removing exposure to hazardous substances in the workplace" Hazardous substances are found in almost every workplace in NZ and many workers have no protection against the



possible effects, despite the fact that tens of thousands of workers have their health destroyed by asthma, dermatitis, lung disorders and cancers because of exposures.

The RMTU will be campaigning under the banner "Ban Asbestos". Posters have been commissioned and printed and will be soon distributed to all branches. Please post them on all noticeboards and include the details of your local event in the space provided. In KiwiRail asbestos is a particular focus as many worksites have been identified as having asbestos containing material which is delaminating and releasing the fibres to atmosphere. Many buildings are clad in Galvbestos and the material is in an appalling state.

All Branches are asked to commence formal arrangements for services/events and advise National Office so that we are able to advise other Unions of such. Especially if your branch is holding an event at a memorial site.

All members are requested to attend a memorial service organised near them.

As usual we ask all members to stop what they are doing at midday to "Mourn the dead – Fight for the living" and to think about how important personal safety is to us all and the importance of going home safe at the end of our days' work.

As usual we will be requesting Rail employers to approve all train and other operations stopping at midday on the 28th for 1 minute.

Please advise us of all services to be held on the day?

RMTU MEMBERSHIP DATABASE UPDATES

The RMTU membership database is an important tool in contacting Union Members or ensuring members are kept up to date with the latest information. We are concerned at the number of "unknown" or "return to sender" envelopes returned to

National Office as part of this year's officer elections. We remind members that if you wish to exercise their rights and participate in the decision making aspects of the Union they should ensure they inform National Office of any change of address or contact details as soon as possible. This includes any change of designation or employer.

Branch Secretaries hold "update of membership forms" that you can post or fax in or alternatively for immediate action members are reminded to utilise the update of membership details link on our website www.rmtunion.org.nz.

For example – All national Union elected positions are up for election this year and so there may be votes conducted by mail. If we have the incorrect address info you will not get a vote as you will never receive a voting paper. **Update now!**

LENDING RESTRICTIONS SHOULD APPLY TO AUCKLAND ONLY

Most people will agree that the only really overheated market in the country is Auckland. Therefore, the current loan to value restrictions, implemented by the Reserve Bank, should only apply in Auckland. This appears to be sensible.

We should actually be encouraging first home buyers to borrow, even if is above the 80% levels, to acquire dwellings in such places as Dunedin, Palmerston North and Hamilton. Some people have said that if this was the case, it may encourage people to game the system and borrow excessively on their houses outside of Auckland, so they could in fact buy in Auckland. A few might do this but we think it is highly unlikely, due the existing price differentials.

The best policy is to actually try and encourage buyers to purchase only in provincial areas and have loan to value restrictions only in the areas where there is a problem, that is Auckland.



FACEBOOK POSTS – RISKS FOR EMPLOYERS AND EMPLOYEES

A former employee of Kea Petroleum Holdings Limited made a number of Facebook posts that were held to be in breach of the non-disparaging clause in a settlement agreement between the two parties. The company successfully relied on the Facebook posts in the Employment Relations Authority to seek enforcement of the settlement agreement and a penalty from their former employee.

Kristel McLeod and Kea Petroleum Holdings had entered into an agreement in full and final settlement of all claims arising from Ms McLeod's employment with Kea Petroleum Holdings. One of the terms (a standard clause in settlement agreements) stated that Ms McLeod was not to disparage or speak ill of the company or its officers. Some months after the employment had ended Ms

McLeod posted an article on Facebook that was available for anyone to access and read. The article stated that Kea Petroleum

Holdings' Managing Director had made false statements and lied to shareholders. A month later another entry was posted about the Managing Director being fired. The Authority Member found a pattern of breaches to the settlement agreement that were intentional and deliberate. A penalty of \$2,000 and costs were awarded against Ms McLeod.

In a second case, this one heard by the Human Rights Review Tribunal, a former employee posted photos to her private Facebook page of a cake she baked and iced with the name of her former employer, accompanied by swear words, and in a style similar to the company's branding. In *Hammond v Credit Union Baywide*, the Tribunal considered Ms Hammond's privacy rights had been breached by her former employer, New Zealand Credit Union Baywide (NZCU).



Ms Hammond resigned from NZCU to work for another Hastings finance firm whose personal loan business was predominantly with NZCU. At the same time, another employee, Ms Gooding, left the employment of NZCU in circumstances widely regarded as unfair. In an attempt to cheer Ms Gooding up, Ms Hammond had a dinner party with 10 close personal friends, five of whom were current employees of NZCU. Ms Hammond baked the cake and uploaded a photo to her Facebook page, which could only be accessed by people accepted as 'friends' by Ms Hammond.

The company found out about the photo, and then took the following steps:

- Management were unable to access Ms Hammond's Facebook page to access the photo of the cake. A new and very junior employee was unreasonably pressured by the HR Manager to provide access to the page through her own Facebook account. She was not given the option of saying no.
- The screen shot of the cake was almost immediately disseminated to four HR agencies in the Hawkes Bay area by email, along with contemporaneous phone calls by the HR Manager to those recruitment agencies warning against employing Ms Hammond.
- The Chief Executive Officer sent an internal email to all staff disclosing information about the circumstances in which Ms Hammond had earlier resigned.
- Ms Hammond's new employer was pressured to terminate her employment or face an embargo on referrals prepared by Ms Hammond, which would cripple the company (FinancePoint) financially at a time when its owner was known to be seriously ill. After NZCU halted business with Finance Point for three weeks Ms Hammond decided she had no option but to resign in order to protect FinancePoint's business.

Following her resignation from FinancePoint, Ms Hammond was unemployed for 10 months. Even then, she was unable to find employment in her chosen area of expertise (finance). She eventually obtained a Receptionist/PA role.

The Tribunal held NZCU had breached Information Privacy Principle 11 of the Privacy Act 1993. Principle 11 states that personal information should not be disclosed for purposes other than those for which the information was obtained. The breach interfered with Ms Hammond's privacy, and caused significant humiliation, loss of dignity and injury to the feelings of Ms Hammond, as well as other harm.

The Tribunal held the case was arguably the most serious to have come before it. The actions of the senior executives were described as shameful. There was a sustained campaign by NZCU to inflict on Ms Hammond as much harm and humiliation as possible by ensuring she could not be employed in the Hawkes Bay area, if not further afield, and to secure her dismissal by her current employer. The company had grossly over-reacted to the news about the cake made for a private party, which only a few people had seen. The Tribunal did not accept NZCU's stated reasons for distribution of the photo, including that the photo of the cake in some way posed commercial risk to NZCU, or reputational damage. Instead distribution of the photograph had been entirely and exclusively by NZCU.

The Tribunal awarded Ms Hammond \$98,000 for severe humiliation, loss of dignity and injury to feelings. It also awarded approximately \$70,000 for lost income, pecuniary loss in the form of legal expenses, and damages for the loss of a benefit she might have expected to obtain but not for the interference. NZCU was also required to issue various retractions and apologies.

These cases are a cautionary reminder that what employees post on social media, and what employers can do with that information, each remain important issues to consider.

CLEAR HEADS: OPTIONS TO REDUCE THE RISKS OF ALCOHOL- AND DRUG-RELATED IMPAIRMENT IN AVIATION, MARITIME AND RAIL

The Ministry of Transport is exploring the need for a new regime to manage alcohol- and drug-related impairment in aviation, maritime and rail. We have released a discussion paper and invite you to join the conversation on the most appropriate way to manage these risks.



On 31 October 2013, the Transport Accident Investigation Commission released its report on the 2012 Carterton hot-air balloon accident, in which 11 people tragically lost their lives. The Commission recommended regulatory changes to strengthen the management of alcohol and drugs in the aviation, maritime and rail sectors.

The discussion paper – Clear heads: options to reduce the risks of alcohol- and drug-related impairment in aviation, maritime and rail – is a response to this report, and addresses the recommendations through a series of proposed options. At this stage, we do not have a preferred option.

We invite you to explore this issue and submit your views on managing alcohol- and drug-related impairment in aviation, maritime and rail.

The Ministry believes there should be zero tolerance of operator impairment where members of the public are being transported by sea, rail and air. We feel deeply for the families of those who lost their lives through accidents where alcohol- and drug-related impairment may have been a contributing factor.

We will use your input to propose the most appropriate response to the Commission's recommendations.

[Find useful information on the policy options and the surrounding issues](#)

[Make a submission to the Ministry of Transport as part of our consultation process](#)

GOVERNMENT TAKING KIWIS FOR APRIL FOOLS

Many Kiwis will be wondering if the joke is on them when a raft of Government changes come into effect tomorrow, Labour Leader Andrew Little says.

"First is ACC and National's unwillingness to end its rort of Kiwi businesses which is estimated to be costing 700 jobs.

"Despite independent economic analysis finding ACC levies can be sustainability cut to the tune of \$390 million, levies are only being reduced by \$40 million tomorrow. National is set to overcharge by \$350 million a year.

"This means businesses will still pay 90 cents per \$100 in work account levies – down from 95 cents – when Infometrics said it could be cut to 69 cents. And the earners account levy will be unchanged at \$1.26 per \$100 when Infometrics found it could be cut to \$1.14.

"Second is National's Home Start scheme which begins tomorrow but will only give first home buyers a few thousand dollars for a mortgage deposit. That won't go far when Auckland house prices rose by \$1700 a week in the past year.

"This is typical of the Government's tinkering and flies in the face of concerns from both the Reserve Bank and Treasury

that the scheme risks driving house prices even higher.

"And finally while paid parental leave will increase from 14 to 16 weeks tomorrow, it only comes because Labour campaigned for three years to boost support for new parents to 26 weeks. Our proposal had wide public backing and National should have gone further.

"These token changes fall far short of what Kiwi families and businesses need," Andrew Little says.



IMPACT OF TPPA ON HEALTH SECTOR

New Zealand doctors called for a health impact assessment under the Trans Pacific Partnership Agreement (TPPA). Doctors for Healthy Trade representative Dr Erik Monasterio cited a recent Australian report which found significant negative health impacts of the TPPA. He said New Zealand should conduct a similar health assessment.

"The assessment needs to be released publicly, so that parliament and the public can discuss the issues - before political trade-offs are made and the agreement is signed," he said. Monasterio charged the negotiations are aimed at protecting "the massive investments profits of multinational companies that can be bigger than the whole New Zealand economy," not about the trade of goods and services. He said governments should publicly release the full draft TPPA text in order to secure independent and comprehensive review of health impacts for each nation.

"MEAN" GOVT SHOULD DROP APPEAL OF DECISION TO PAY CARERS MINIMUM WAGE

The Green Party is calling on the Government to drop its mean-spirited move to appeal a court decision that respite carers should be paid at least the minimum wage.

The Green Party can reveal that Crown lawyers yesterday lodged an application to appeal against an Employment Court decision that respite carers should be paid at least the minimum wage. Currently these workers are paid a daily amount of just \$75. The move comes as the minimum wage for other workers is set to rise by 50 cents an hour tomorrow.

"Any reasonable person would agree that \$75 is not enough pay for a day's hard work," Green Party industrial relations spokesperson Denise Roche said.

"It's mean spirited in the extreme for the National Government to try to deny these workers even the minimum legal pay rate. This is a classic case of exploitation of workers, most of whom are women.

"The minimum wage is hard enough to live on, yet these respite workers are not even earning half what they'd get on the minimum wage. That the Government's appeal comes just two days before the minimum wage is due to rise is just a further kick in the teeth to these workers.

"Respite carers provide care for elderly and disabled people while their usual carer is getting a break. Without these workers the family care system would collapse.

"Among the reasons for applying to appeal the case, the Ministry of Health and Capital and Coast Health claim that it would be too expensive to pay all respite carers the minimum wage.

"For years the Government and hospitals have exploited these workers simply because they can. That exploitation must stop. Everyone deserves to be paid a decent wage for a day's work and the minimum wage is the very least that these workers deserve," Ms Roche said.



NON-RESIDENTS MUST BUILD

There continues to be reports about non-residents purchasing property here, and squeezing out the locals. The solution is to allow non-residents to buy only brand-new properties. Let them take the development

and construction risks. In this way we will get more properties built and the second hand market is left for the local people. This will actually lead to greater stability in prices, fewer people bidding for second hand properties and more supply will come onto the market as more new dwellings are built.

OZ NATIONAL DAY OF ACTION

On Wednesday, March 4, Australia's unions held a national day of action to oppose austerity measures which they said threaten working conditions and wages for millions of Australians.

Rallies and marches were held in major Australian cities, with the largest demonstration staged in Melbourne. The unions are targeting a pending review of the Australian workplace system by the pro-market Productivity Commission. Leaked recommendations include cuts to the minimum wage and the weekend and night "penalty rates," which primarily impact hundreds of thousands of low-paid workers.

Abbott's conservative Liberal-National party was elected with a solid majority in September 2013 over the Labour Party, but now leads the country with one of the lowest approval ratings in Australian history (29 per cent). Abbott recently survived a leadership challenge in an internal revolt by dozens of his colleagues.

AFFCO FEAR

Meat Workers Union's president Mike Nahu feared the new employment laws could affect negotiations at AFFCO's eight North Island plants where the union has been trying to negotiate a new agreement for 14 months.

Workers fear the company may have stalled talks to avoid a new agreement because, among other changes, employers now can walk away from collective bargaining.

"Not saying these things are going to happen but the possibilities of what could arise are actually causing a great deal of concern given the history of the last collective negotiations," he said.

Three years ago 1,000 workers were locked out to settle their last collective agreement

and workers are worried that they still don't have a settled collective.

"They're very unsettled at the moment," Nahu said.

He reported the company wants to cut more than \$100 from workers' weekly

minimum pay and make them work longer days for less. AFFCO, a wholly-owned subsidiary of Talley's Group, is a leading processor of seafood, vegetables, dairy products and meat.

**LET'S BE SAFE OUT THERE &
REMEMBER.....**

**SAFETY
FIRST!**

