

7 October 2008

Mr. W Butson  
General Secretary  
Rail and Maritime Transport Union  
P O Box 1103  
WELLINGTON

Dear Wayne,

**Re: KiwiRail Proposal for Settlement**

This letter outlines the terms and conditions agreed to between KiwiRail and the RMTU for a new collective agreement. This agreement is subject to all prior claims and counter claims by both parties not included in this document being withdrawn.

**Coverage**

Revised clause 4.5 as follows:

This collective agreement applies to all employees of the employer parties to this agreement who are employed from or after the effective date of this agreement and who are or become members of the Rail and Maritime Transport Union except for the following:

- Managerial positions above MR level 23 responsible for recommending and/or approving appointments and dismissals which would otherwise come under the provisions of Scale 1;
- Sales, policy, human resources, and executive support functions; and
- Seagoing maritime employees.

**Employment Relations Education Leave (EREL)**

Revised clause 6.10 as follows:

An effective consultative and partnership relationship between the parties is dependent upon management and union representatives at all levels receiving appropriate training and education in their role. Paid leave may be provided for this purpose. The notification date for the union to inform the company of EREL entitlement will be 1 July each *year*.

**Expenses**

Revised clause 10.3 and 10.3.1 as follows:

10.3 If you are working away from home and the employer provides you with accommodation and meals, you will be paid an Incidental Allowance of

\$11.46 per night.

In certain circumstances (excluding attendance at training courses, seminars or conferences) you may choose to arrange your own accommodation and / or meals. If you arrange your own meals you will be paid a Meals and Incidentals Allowance of \$85.96 per night. If you arrange your own accommodation and meals you will be paid an Accommodation, Meals and Incidentals Allowance of \$157.82 per night.

10.3.1 When KiwiRail Limited arranges training block courses conducted by Woburn Training Centre, at various locations throughout the country (excluding Auckland), a weekly (based on a minimum of 4 nights and a maximum of 5 nights, not including Friday or Saturday night) meals and incidentals allowance of \$327 per week shall be paid.

### **Hours of Work - Short Notice Change**

Clauses 11.8 and 11.9 are combined into a new clause 11.8 and the existing clause 11.10 will re-numbered clause 11.9.

### **Annual Leave**

Revised clause 12.7 as follows:

The leave year for employees employed prior to 1 April 2004 or works in a part of the business subject to an annual closedown is 1 December to 30 November. The leave year for employees employed after 1 April 2004 will commence from their anniversary date.

Revised clause 12.8 as follows:

At the end of each year of employment you will be entitled to four weeks annual leave. Any leave entitlement above four weeks may be taken in cash with your Manager's approval. You must take a day's annual leave for each day cashed up. With effect from 1 December 2008, employees with 7 or more years continuous service will qualify for a fifth week of annual leave.

Delete clause 12.10

Amended clause 12.11 as follows:

12.11 You need to take a break from work on a regular basis to relax and to refresh yourself. For this reason the employer requires that leave is taken within twelve months of falling due. In order to ensure annual leave entitlements are fully used during the leave year, you will take at least 50% of your annual leave in blocks of 1 and/or 2 weeks. Requests for leave should be recorded in writing. Be sure to discuss your holiday preferences with your Manager so that as far as practicable your requests can be accommodated. To help with work planning and rostering please give as much notice as possible. It is preferable that leave requirements are known before the work plan or roster

is prepared. Your manager will promptly let you know whether your leave requests can be met so that you can finalise your own arrangements.

### **Alternative Days**

Revised clause 12.4 (ii) as follows:

12.4 (ii) if that day would otherwise be a working day, you will be granted an alternative day off on pay calculated at your relevant daily pay to be taken on a day that is agreed with the employer, or if agreement cannot be reached then:

- a) If it is within 12 months of the entitlement arising, at a time determined by you, taking into account the employer's view as to when it is convenient for you to take the day, provided at least 14 days notice is given by you; or
- b) If 12 months have passed since the entitlement to that alternative holiday arose, then if the parties are unable to reach agreement as to the date on which the employee will take the alternative holiday, the employer can determine when that alternative holiday is taken, provided at least 14 days' notice is given to you.

### **Public Holidays**

Revised clause 12.5 as follows:

If you work on a public holiday that falls on a week day that is not your normal working day you will be granted an alternative day of paid leave. In addition, if a public holiday falls on a week day that is not your normal working day, and you do not work on that day, you will still be granted an alternative day of paid leave. This provision does not apply to part time employees, locomotive running employees, or casual employees.

### **Requirement for a medical certificate**

Revised clause 13.11 as follows:

You will need to provide a medical certificate from your doctor for an illness / domestic leave involving an absence of more than 5 consecutive calendar days. In some circumstances (e.g. where there is a pattern of frequent short illnesses or repeated absenteeism) you may also be expected to provide a certificate for an absence of up to 5 consecutive calendar days, but this will be subject to prior written advice to you. Where the employer requests a medical certificate for absence of less than 5 consecutive calendar days, the employer will meet the reasonable cost of you obtaining this certificate.

## **Medical Assessment**

Revised clause 13.14 as follows:

To obtain an assessment of your health or obtain an opinion about when you will be able to return to work the employer may, at its expense, require you to undergo a medical examination by a doctor nominated by the employer after consultation with you. Where practicable, the employee will be offered a choice about which doctor they are assessed by.

## **Alcohol and Drug Testing**

Revised clause 13.20 as follows:

In some situations the employer may require you to undergo non-intrusive drug and alcohol tests (e.g. breath and urine). These tests will be conducted by a trained professional and will satisfy all criteria necessary for safe and accurate testing. The situations in which testing may occur are:

- In situations of internal transfer or promotion from a non-safety critical position to a safety critical position and in situations of promotion between safety critical positions.
- Where you have been involved in a serious accident or serious operating incident where your actions may have contributed to the accident/incident.
- Where it is believed on reasonable grounds that that you have been or are about to start work under the influence of alcohol or drugs

## **Retirement**

Revised clauses 14.6 and 14.7 and deletion of 14.8:

### **14.6 Employees employed prior to 1 February 1999**

14.6.1 If you have reached the age of eligibility for the guaranteed retirement income you will be eligible for retirement leave under the Retirement Leave Schedule except where a previous employment agreement applicable to you provided for a retirement payment based on service and being aged 50 - 65 when you retire in which case you will be paid in accordance with the retirement leave schedule.

14.6.2 If you intend to you may submit a request to retire earlier than age of eligibility for the guaranteed retirement income such request should be made to the employer which may at its discretion consider such a request on a case by case basis. Such requests should be provided with 6 months notice.

14.6.3 If you intend to retire on or after the age of guaranteed retirement income, the company requires you to provide 1 months notice of your intention to retire.

## **14.7 Employees employed after 1 February 1999**

14.7.1 Once you reach the age of eligibility for the guaranteed retirement income you will be eligible for retirement leave under the Retirement Leave Schedule. The company requires you to provide 1 months notice of your intention to retire.

## **Debts**

Revised clause 14.10 as follows (this will be moved to the other matters section (clause 15.10):

You agree to the employer deducting any proven and recoverable over-payments, proven outstanding debts or money proven to be owed to it by you from your final pay and holiday pay or by another method agreed between the employer and employee and failing that the parties, with such agreement not to be unreasonably withheld.

## **Indemnity**

Revised clause 15.6 as follows:

15.6.1 The employer will indemnify you against reasonable costs associated with defending any civil and criminal proceedings and in being legally represented in relation to any external investigation processes with potential prosecuting agencies (such as the Police or the Department of Labour or NZTA) where such proceedings or investigation arise out of acts or omissions during the normal and ordinary course of employment. This indemnity is subject to the following qualifications:

- You must not have been dismissed as a consequence of your act or omission giving rise to the proceedings or external investigation; and
- The indemnity does not apply in situations arising from any act or omission while you are unable to properly perform your duties because of the influence of alcohol or if you are deliberately taking or using illegal drugs and in cases of deliberate and significant misuse of prescribed or over the counter drugs; and
- The employer has the discretion to decide whether to extend the indemnity to cover the costs of any appeal against judgment or conviction; and
- It does not apply to the payment of traffic offence notices, parking or similar offences.

15.6.2 The reasonable costs referred to above are where practicable, to be notified to the employer before they are incurred.

For MOU: The parties agree to set up a working party to discuss a list of possible 3rd party representatives, bearing in mind that the selection of a particular representative will depend on availability and appropriateness in any one case, and to also discuss ways to efficiently manage costs.

## **Other Matters**

All expiry dates in the other matters section (clause 15.10) are changed to reflect the term of agreement.

## **Notification of Criminal Convictions**

New clause (to be inserted in clause 15 other contractual matters) as follows:

Employees shall as soon as practicable notify their line manager of any charges laid against them from the commencement of the date of this agreement, which carry a potential custodial sentence of 3 months or more. This clause applies to charges laid under the under the Crimes Act 1961, Land Transport Act 1998, Misuse of Drugs Act 1975, Health and Safety and Employment Act 1992 and Railways Act 2005 (including any modification, re-enactment or amendment to these Acts).

## Pay Schedules

### Pay Schedule - Scale 1

Pay levels 1 to 4 are deleted.

### The Interislander Gangway Operators

The RMTU claim for 'Gangway operators to advance to grade 1 (from grade 2)' will be dealt with as part of a progression scale developed in a working party, which will be referenced within the MOU.

### The Interislander Car Marshall, Rail Marshall and Clerical

The RMTU claim for 'Car Marshall & Rail Marshall pay rate increase to Team Leader Rates and Car Marshal extra duties for discussion' and the skill-based clerical progression claim will be dealt with by the Company reviewing role accountabilities and prepare new position descriptions. Once these are prepared an assessment can be made on appropriate payrates. This will be referenced in the MOU.

### Tranz Scenic

A skill based progression criteria will be introduced for Train Attendants in the Tranz Scenic business. This also includes the re-designation of Train Attendants to Train Manager/Attendant. A working party will be established to agree the criteria for advancement from Train Manager/Attendant level 1 to Train Manager/Attendant level 2.

The pay structure based on the above progression criteria will be (these are pre-ratification rates of pay):

The general increases will be applied to these rates.

<b>Position</b>	<b>Paycode</b>	<b>Per Hour</b>
Steward/Stewardess - Long Distance Passenger Trains	41093	\$14.97
Train Manager/Attendant level 1 - Long Distance Passenger Trains	66400	<ul style="list-style-type: none"><li>• \$19.69*</li><li>• \$17.16+</li></ul>
Train Manager/Attendant level 2 - Long Distance Passenger Trains	66405	<ul style="list-style-type: none"><li>• \$20.35*</li><li>• \$17.78+</li></ul>
Train Manager (G)- Long Distance Passenger Trains	41210	\$17.78

- \* Denotes "aggregate wage" which applies to 80 hours as per clause 8.2
- + Denotes "ordinary rate" which applies to hours in excess of 80 as per clause 11.11
- Train Manager/Attendant level 1 = Train Manager/Attendant prior to attaining full competent level
- Train Manager/Attendant level 2 = Competent Train Manager/Attendant
- Train Manager G = Grandfathered Train Manager

Existing Train Managers Long Distance Passenger Trains paid under paycode 41210 will be re-designated Train Manager (G).

Change of wording to clause 11.12 - replacing designation of Train Attendant. New wording proposed to be "the following do not apply to locomotive running staff or Long Distance Passenger Train Manager (Trainee) or Long Distance Passenger Train Manager (excluding Long Distance Passenger Train Manager G)".

**KiwiRail Terminal Operations**

- Sector Increase for KiwiRail Terminal Operations employees (paid under payscale 5.2 and paycodes 41235 & 41211 in payscale 4.1) as follows: -

Effective 1 July 2008	5%
Effective 28 June 2009	5%

These percentage increases are inclusive of the general increases.

**KiwiRail CT Sites Dangerous Goods Processing**

The provisions of clause 11.17 (call backs) will be applied to employees on call who are involved in processing wagons with hazardous freight (documentation) that travel between the islands on the ferries.

**Auckland Metro Maintenance**

A skill based progression criteria will be introduced for Servicepersons in the Auckland Metro Maintenance business. The progression criteria will be:

Serviceperson level 1

- Fuelling (provisioning), washing, movement of rail vehicles, inspection of freight locomotives and minor running repairs.

Serviceperson level 2

- Level 1 skills plus inspection of passenger trains.

The pay structure based on the above progression criteria will be (these are pre-ratification rates of pay):

<b>Position</b>	<b>Paycode</b>	<b>Per Hour</b>
Serviceperson (level 1)	42500	\$18.47
Serviceperson (level 2)	42510	\$18.77

The general increases will be applied to these rates.

**Travel Privileges**

Revised clauses for Travel Privileges in the Benefits schedule as follows:

Clause 2.1 – removal of leave from second bullet point to read:

- One free return vehicle Ferry crossing each year; and



### Clause 2.1.3 (b)

Employees that are on retiring leave, or who have received a gratuity in lieu of such leave, are entitled to free rail travel and one free return ferry trip for themselves, nominated persons and dependants, for a period equal to one half of retiring leave entitlement. The period must commence within 6 months from the date of retirement (last working day)

Remove current Clause 2.2.5 and replace with "For the purpose clause 2.1, the year runs from 1 July to 30 June the following year".

## **Memorandum of Understanding**

A MOU will form part of the settlement agreement.

The following clauses in the 2005 – 2008 Memorandum of Understanding are retained:

- KiwiRail Industrial Council (excluding TTL)
- Book on Book Off Arrangements
- Conversion of 2<sup>nd</sup> Man Locomotive Running Positions to Rail Operator
- Introduction of part-time Locomotive Running Positions – Tranz Metro Wellington
- Conversion of further Terminal Shunt Operations to Remote Control
- Union Leave

The following new provisions will be included in the MOU:

- KIC terms of reference minus TTL but to include CT and Tranz Scenic
- Mechanical Progression to be finalized (Passenger)
- Mechanical Progression to be developed for Auckland Metro Maintenance
- Interislander Consultative Forum

A CT progression criteria document will be developed, similar to the Hillside pay progression schemes.

Inclusion of the Indemnity clause working party into the MOU:

The parties also agree to set up a working party to discuss a list of possible 3rd party representatives, bearing in mind that the selection of a particular representative will depend on availability and appropriateness in any one case, and to also discuss ways to efficiently manage costs.

## **Working Parties – Referenced in MOU**

Terms of reference for all working parties will be within the MOU.

1. A rail industry working party will be established to limit the application of termination for incapacity provisions to employees under the age of 65 years.
2. A working party will be established to consider and develop a skill based pay and progression remuneration system for Metro and Wairarapa Train Managers.

3. A working party will be established to agree the competency criteria for the pay progression developed for Tranz Scenic Train Attendants / Train Managers.
4. A working party will be established within the Interisland Line on Gangway Operators, Rail Marshalls, Car Marshalls and scale 1 employees.
5. A working party will be established in conjunction with United Group to review recruitment and retention within the Mechanical Engineering.
6. A working party will be established to review CT staff roles and accountabilities in the management of refrigerated cargo. This review will consider the possibility of reefer responsibilities forming part of CT progression criteria and the NZQA qualification framework for CT roles, with associated recognition of any additional work requirements in this area.

### **Leave Management**

A leave management process as contained within the MOU will be applied across the Company.

### **KiwiRail Industrial Council**

The following items have been referred to the KiwiRail Industrial Council.

#### 1. Terminal Team Leaders

A review of terminal Team Leaders structure will be undertaken through the KIC.

#### 2. Radios

The RMTU claim of 'mainline locomotives that are used as lead units have a fully functioning AM/FM radio that has reception over the whole network' is referred to the KiwiRail Industrial Council.

#### 3. Coal

The RMTU claim for an allowance to be paid to Locomotive Engineers who operate 45 wagon coal trains is referred to the KiwiRail Industrial Council.

#### 4. Fuel Saving

A joint communication will be made from KIC on the continuation of the current agreement regarding the start up and shut down of locomotives.

### **Term of the Collective Agreement**

A two-year term agreement is confirmed. The agreement will come into effect on the commencement of the fortnight after ratification and will expire on 30 June 2010.

## **General Increase**

On the basis of the terms and conditions outlined in this document the pay settlement over a two-year term is as follows:

- Effective 1 July 2008 - 4% on all rates of pay and allowances (unless specifically excluded in this document), and
- Effective 28 June 2009 - 4% on all rates of pay and allowances (unless specifically excluded in this document).

The pay and allowance increase effective from 1 July 2008 will be paid as follows:

- Pay rates will be increased by 4% with effect from the implementation date of the agreement (the date being the commencement of the fortnight after ratification), and
- A 4% backdating on gross earnings from 1 July 2008 until the date of commencement of the agreement - 12/14<sup>th</sup> of gross earnings will be used for fortnight ending 12 July 2008.

## **Memorandum of Understanding**

The Memorandum of Understanding between KiwiRail and the RMTU is enclosed.

**Craig Nelson**  
General Manager Operations  
KiwiRail

**Wayne Butson**  
General Secretary  
Rail and Maritime Transport Union