

Memorandum of Understanding

Rest and meal breaks for bus drivers

This **Memorandum of Understanding** is effective from 29 April 2019.

Parties to this Memorandum of Understanding

This Memorandum of Understanding is made between:

- Hon Phil Twyford, Minister of Transport, for the Government (including the Ministry of Transport and the NZ Transport Agency)
- Hon Iain Lees-Galloway, Minister for Workplace Relations and Safety
- Barry Kidd, Bus & Coach Association, for bus service operators (listed in Schedule 1)
- Greg Campbell, Greater Wellington Regional Council, for regional councils, unitary authorities and Auckland Transport (listed in Schedule 2)
- Richard Wagstaff, New Zealand Council of Trade Unions, for unions (listed in Schedule 3)

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A Introduction

1. The Government is committed to growing public transport as a key part of its transport strategy and is investing significantly to support that objective.
2. The Government supports workers' rights and believes that bus drivers, like all workers, deserve fair working conditions, including rest and meal breaks.
3. On 6 May 2019, changes to the Employment Relations Act 2000 come into force that provide workers with minimum entitlements to rest and meal breaks. These changes will mean bus drivers are entitled to 10-minute breaks during typical driving shifts.
4. The complexity of service planning in the public transport industry makes implementing these changes a significant challenge for bus service operators, councils and unions. The Government is committed to working constructively and collaboratively with bus service operators, councils and unions to assist them to address these challenges.

B Outcome

5. The purpose of this Memorandum of Understanding is to achieve the smoothest possible transition to the implementation of the amended rest and meal break provisions of the Employment Relations Act 2000. This will ensure bus drivers receive the rest and meal breaks they are entitled to while minimising service disruption and safety risks, and costs to councils, bus operators and the Government.

C Steering Group established

6. A Steering Group has been established to oversee the implementation of this Memorandum of Understanding, recognising the context of each individual party. The Steering Group is comprised of:
 - Peter Mersi, Chief Executive, Ministry of Transport (Chair)
 - Brent Johnston, Manager, Mobility & Safety, Ministry of Transport
 - Richard Wagstaff, representing bus driver union members
 - Barry Kidd, representing bus service operators
 - Greg Campbell, representing regional councils, unitary authorities and Auckland Transport
 - Barbara Tebbs, NZ Transport Agency
 - Beth Houston, for the Minister of Transport

7. The Ministry of Transport will provide secretariat support to the Steering Group and free and frank advice to the Minister of Transport on matters relating to this Memorandum of Understanding.
8. The Ministry of Business, Innovation and Employment will support the Steering Group in an advisory capacity.
9. The Steering Group will meet regularly to:
 - 9.1 monitor and evaluate progress towards the outcome of this Memorandum of Understanding;
 - 9.2 address matters of concern related to the implementation of the Memorandum of Understanding raised by members of the Steering Group or by Parties to this Memorandum of Understanding.

D Acknowledgment of work

10. The Parties collectively acknowledge the considerable time and effort that each has contributed towards the development of this Memorandum of Understanding.
11. Current and ongoing work has and will include meetings and workshops between councils, bus service operators and unions. Working groups will be established to develop case studies to model the impacts of the changes to the Employment Relations Act 2000 on the scheduling of services and costs.

E Principles

12. The Parties agree to:
 - 12.1 work constructively and collaboratively, based on a spirit of goodwill and cooperation, to achieve the outcome of this Memorandum of Understanding;
 - 12.2 adopt a tripartite approach, under which bus service operators, unions and councils, facilitated by Government, will develop and implement an industry-wide solution to achieve the outcome of this Memorandum of Understanding;
 - 12.3 enable the free flow of information between the Parties as necessary to facilitate and provide assurance about the achievement of the outcome of this Memorandum of Understanding.

F Undertakings, roles and responsibilities

13. The Government will make a new Land Transport Rule (the Rule) to come into effect before 6 May 2019. The Rule will provide clear parameters for the application of rest and meal breaks for bus service operators and their employees.
14. Before 6 May, and through the transition period described in part G, bus service operators and unions agree to use their best endeavours to employ maximum flexibility in how rest and meal breaks are applied, acknowledging that breaks may be difficult to schedule in, or close to, the middle of shifts without significant service disruption.
15. Bus service operators will work with unions to ensure that all staff are supported to participate in discussion forums with unions. For those staff who choose not to participate in these forums, operators undertake to engage with those staff in good faith as part of normal business practice. If concerns emerge these will be addressed by the Steering Group in accordance with clause 9.2.
16. In giving effect to clause 15, to facilitate engagement, the Parties will, where appropriate, disseminate information in a manner consistent with clause 30.
17. Councils agree to work with bus service operators and representatives of bus drivers in good faith to allow maximum flexibility in the timetabling of bus services during the transition period described in part G, to minimise service disruption and customer impacts.
18. Bus service operators and unions agree to avoid undertaking any form of industrial action on matters relating to this Memorandum of Understanding during the transition period described in part G below.
19. Bus service operators and unions agree to raise with the Steering Group any matters relevant to this Memorandum of Understanding that may affect collective or individual bargaining.
20. Collectively, bus service operators, councils and unions undertake to:
 - 20.1 work together to facilitate the application of the provisions of the Rule as they relate to rest and meal breaks in good faith and to ensure the smoothest possible transition to the new requirements;
 - 20.2 contribute to or attend workshops or meetings during the transition period to facilitate that transition.

21. The initial focus of the Parties is achieving the smoothest possible transition to the implementation of the amended rest and meal break provisions of the Employment Relations Act 2000. However, the Parties also agree to use a tripartite industry process to progress work on:
 - 21.1 workforce development issues;
 - 21.2 a review of the Worktime and Logbooks Rule and compliance with it;
 - 21.3 achieving a living wage as a minimum standard.
22. The Parties agree to raise any concerns or issues related to the implementation of this Memorandum of Understanding through the forum of the Steering Group. The Steering Group is to be the initial point of recourse for those concerns or issues.
23. The undertakings in this Memorandum of Understanding may be varied by agreement between the Parties.
24. The undertakings in the Memorandum of Understanding cease at the end of the transition period described in Part G below, or earlier if agreed between the Parties.

G Transition Period

25. The Parties agree to a 'transition period' of up to 12 months commencing on 6 May 2019.
26. During the transition period, the NZ Transport Agency will monitor the scheduling of rest and meals breaks, and bus service operators and councils will facilitate access to information necessary for the Agency to perform its monitoring function.
27. During the transition period, and beyond, the Minister of Transport undertakes to investigate systemic issues in the industry that need addressing to grow and strengthen the industry. This includes improving service efficiency, management of service performance, addressing workforce recruitment and retention issues, ensuring adequate infrastructure provision, driver wages and conditions, and enhancing workplace relations.
28. During the transition period, councils will take into account the impact of rest and meal breaks in their management of service performance through public transport contracts with bus service operators.
29. During the transition period, councils, unions and bus service operators will work collaboratively to examine adjustments to scheduling, rostering and timetables in order to achieve a smooth transition and minimum disruption when the

legislation comes into effect. This will include examining the implementation of the Rule.

H Communications

30. The Parties agree to use and/or disseminate amongst their organisations, and to support one another as appropriate, all communications material provided by the Steering Group, and associated communications and consultation material required to implement this agreement.

I Funding

31. The Parties acknowledge that achieving the outcome of this Memorandum of Understanding will have funding implications. The parties agree to undertake discussions about cost-sharing arrangements in good faith leading up to 6 May and during the transition period.
32. The Parties agree to apply the following funding principles to the good faith discussions as follows:
- 32.1 central government (via the NZ Transport Agency), local government, and passengers share the costs of providing public transport services;
 - 32.2 there will be cost implications as a result of implementing new rest and meal breaks;
 - 32.3 councils and the NZ Transport Agency will seek assurances that the disruption to services and additional costs from implementing rest and meal breaks have been minimised by bus service operators;
 - 32.4 the Government (via the NZ Transport Agency), councils, and bus service operators will enter into cost sharing discussions to ensure costs are fairly borne and that these costs have been minimised and quantified with certainty.

J Confidentiality

24. All information and other correspondence between the Parties in respect of the matters contained in this Memorandum of Understanding must be kept confidential and must not be disclosed except to the extent:
- 24.5 required by law; or
 - 24.6 necessary for the Parties to monitor, share information and discuss the issues raised in this Memorandum of Understanding, consistent with any statutory or regulatory obligation or requirement, such information to be used by the Parties solely for the purposes for which it was provided; or
 - 24.7 otherwise agreed to between the Parties in writing.

K Conditions

25. Nothing in this Memorandum of Understanding shall make either party liable for the actions of the other, or create any new legal relationship between the parties.

Executed as a Memorandum of Understanding

Signed: 

Greg Campbell


Regional/Unitary Councils/Auckland Transport

Name

Signing for

24 April 2019

Date

Signed: 

Barry Kidd
Chief Executive
Bus & Coach Association

Bus operators listed in Schedule 1

Name

Signing for

24 April 2019

Date

Signed: 

Richard Wagstaff
President
NZ Council of Trade Unions

NZ Council of Trade Unions

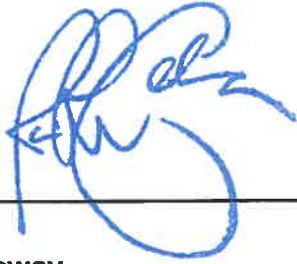
Name

Signing for

25 April 2019

Date

Signed:



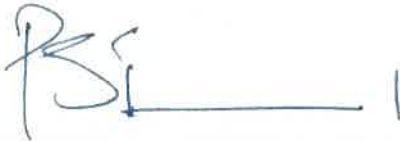
Hon Iain Lees-Galloway

Minister for Workplace Relations and Safety

Name

X

Signed:



Hon Phil Twyford

Minister of Transport

Name

29 April 2019

Date

Schedule 1: Bus Service Operators

Bus Service Operators who are party to this Memorandum of Understanding are listed below, along with the date on which they became a party.

Howick & Eastern Buses Ltd	24 April 2019
Mana Coach Services.	24 April 2019
Uzabus	24 April 2019
Pavlovich Coachlines	26 April 2019
Go Bus	26 April 2019
Nelson Coachlines	26 April 2019
NZ Bus	26 April 2019
Tranzit Coachlines	26 April 2019
Red Bus	26 April 2019
Ritchies Transport	29 April 2019
Ritchies Murphy Transport Solutions	29 April 2019

Schedule 2: Regional Councils, Unitary Authorities and Auckland Transport

Local authorities who are party to this Memorandum of Understanding are listed below, along with the date on which they became a party.

Auckland Transport	24 April 2019
Greater Wellington Regional Council	24 April 2019
Northland Regional Council	24 April 2019
Waikato Regional Council	24 April 2019
Bay of Plenty Regional Council	24 April 2019
Gisborne District Council	24 April 2019
Taranaki Regional Council	24 April 2019
Horizons Regional Council	24 April 2019
Hawkes Bay Regional Council	24 April 2019
Nelson City Council	24 April 2019
Marlborough District Council	24 April 2019
Environment Canterbury	24 April 2019
Otago Regional Council	24 April 2019
Invercargill City Council	24 April 2019
Environment Southland	24 April 2019

Schedule 3: Unions

Unions who are party to this Memorandum of Understanding are listed below, along with the date on which they became a party.

New Zealand Council of Trade Unions

25 April 2019

Unions to follow following consultation with members and delegates