



Screen Music & Sound
Guild of New Zealand
Te uepū Kaitito Whakaata

Members call - Thursday 12 May 2022 1pm to 2.30pm

Summary Notes

21 Attendees

Guests were Melissa Ansell-Bridges, National Secretary NZ Council of Trade Unions and Denise Roche, Director of Equity NZ.

Background - The Hobbit Law was the architect of where we are now. This legislation was introduced overnight by National in 2010 at the behest of Warners. The end result was that people working in the film industry would not be considered employees and as a result, they could negotiate collectively.

2017 was the change of government (Labour). They wanted to get rid of The Hobbit Law and at that time most people were well embedded in the contractor situation. So the government established the Screen Working Group to represent workers in the screen industry. The group was asked to develop a fair system. The recommendations of that group became the backbone for the bill that is now going through the readings.

(Once in law, the Bill will be reviewed in 5 years.)

Agreed principles:

1. Parties must act in good faith
2. Workers must be protected from bullying, discrimination and harassment
3. Engagers must act fairly and reasonably when terminating contracts
4. Workers must receive a fair rate of pay

Difference between employees and independent contractors:

- **Employer** directs flow of work, place of work, time of work, and provides tools and equipment for the job
- Independent **contractor** controls time of work, place of work, flow of work and provides own equipment

How does occupational (eg: all writers) bargaining work:

- Contractors are represented by unions and guild (unions and guilds need to register with the Employment Relations Authority ERA)
- Industry/Occupational negotiates with engagers across industry/occupational groups
- Members need to endorse bargaining
- ERA decides if negotiations can happen



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- Requirement to negotiate in good faith
- There is a duty to conclude
- Some mandatory conditions required (pay, hours of work, termination process)
- Can apply to mediation if negotiations break down
- Can apply for a determination by ERA if the parties reach an impasse
- No right to strike/lockout (specific to non-employees ie: contractors)
- When bargaining is concluded the ERA will check the proposed contract
- Members (and those covered by the industry/occupation) vote on the contract
- Once it is endorsed engagers have 6-12 months to meet the minimum standards in the contract

There are other parts to the legislation around enterprise (all people working on a project eg: Shortland Street or a large scale international production) bargaining:

- Collective bargaining can happen for workers on the same project or enterprise or working for the same production
- This can only happen once minimum standards have been reached across the industry
- All parties have to agree to negotiate - there is no requirement to conclude bargaining or even to meet
- Negotiations have to happen in good faith
- If negotiations break down mediation is voluntary
- No right to strike or lockout

The ideal for enterprise bargaining is to set industry wide occupational minimums and then undertake a range of enterprise collective contracts that would be higher than the occupational minimums.

This should avoid the 'race to the bottom' in terms of paying for workers.

What's required to happen:

- Pass bill (anticipated in second quarter of this year)
- Educate members
- Organise a vote of the entire sector to agree to occupation-level bargaining
- Develop claims
- Endorse negotiation team and claims and ratification procedure
- Negotiate occupational level collective contract
- Initiate bargaining (ERA to agree)
- Ratification (vote)
- ERA checks contract
- Collective contract in place
- Renegotiate every 3 to 5 years (determined by the parties)



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Follow up discussion points:

Occupational agreements apply to everyone in that occupation, whether they are union members or guild members or not.

The list of occupational groupings already exist. Terms and conditions apply to us (SMSG) so we will be part of the entire occupational group. So we need to be across any specific aspects that are specific to our occupational group.

We will all be negotiating with SPADA. SPADA needs to register. Not likely to see negotiations start till 2023.

It has been put forward that writers should go first (composers may have some synergies with writers in terms of IP), then actors.

There's financial support available for bargaining. So SPADA would probably apply for funding to help with bargaining negotiations.

If each guild has minimum pay rates then these would need to be put to SPADA which could in turn make funders revise the available funding. Funding supplied by the funding bodies is outside the scope of this Act. However, this could force a rethink of the funding amount and models.

SMSG would need to register to engage in negotiations. SMSG does not need to be a union to negotiate.

Once the Act is in place, NZCTU intends to engage with non-affiliated organisations to support their effort. Eg: support with education on collective bargain.

Everyone working in the screen industry has to be engaged in accordance with the occupational minimums.

If you pitch for a project as a partnership (eg: a group of 3 people) then you come under the occupational minimums and can negotiate as a group on the foundation of the occupational agreement. (eg: a trio of musicians)

As a composer, contracts exist with publishers as well, making occupational agreements potentially more complicated as we need to protect the IP agreements.



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Part time 'amateur' situations will not be covered by the occupational minimums. Eg: a student short film shot on a very low budget is not required to have the rigour of the fully professional situation.

End of call with Melissa and Denise

Members Business was kept to an absolute minimum:

Rate Cards:

First stab at the rate cards. Will put them on the website

AGM:

Auckland

Saturday 9th July 2022, afternoon (also the Big Screen Symposium is happening on 8-9th July)

Details to follow on specifics and we will ensure we have connectivity so people can call in and attend

Funding:

Continued funding may not be forthcoming from NZFC

Have started a public campaign about the necessity of music and sound

Have been to MCH to explain the situation who have proved supportive

NZFC - John and Polly to meet with NZFC on Monday to get more clarity on criteria

Waiting to confirm a potential event in Parliament to celebrate music and sound

End