



MEMBERS' BULLETIN

RAIL TRAM AND BUS UNION

Bulletin No: 18/2010

05th May 2010

URGENT BULLETIN TO ALL RAILCORP MEMBERS

TO: ALL RAILCORP MEMBERS

RailCorp Members that are involved, in any way with a Serious Safeworking incident, including Managers and Supervisors, should be aware of the following legal advice provided to our union:

When a member is required to attend an interview with a railsafety officer who is conducting an investigation under the Rail Safety Act 2008 ("RS Act") the member cannot refuse to make a statement, give or furnish information, answer a question or produce a document on the ground that doing so might incriminate that member or make them liable to a penalty (section 159(1) of the RS Act).

However, the statement, information or answer is not admissible in evidence against the member in criminal proceedings (with certain exceptions not relevant) if:

- **The member objected at the time to doing so on the ground that it might incriminate him/her or**
- **The member was not warned at the appropriate time that he/she may object to making the statement etc on the ground that it might incriminate him/her (section 159(2)).**

This protection from incrimination is where the member is compelled under the Rail Safety Act. If the person volunteers without being compelled then the protection found in section 159 does not apply. Accordingly members should never volunteer if there is any suggestion of wrongdoing.

This means that members should only attend interviews where they are directed to do so under the Rail Safety Act. Members should not attend "Voluntary" interviews! If you are requested to attend an interview you should ask for a written direction to attend. Never assume that "it is all ok"!

The RTBU have had extensive experience in representing members including tragic accidents at Glenbrook and Waterfall so it is imperative that you contact your union prior to talking to ANYONE!

Bulletin Issued by:
Phillip Kessey
Branch President

Bulletin Authorised by:
Alex Claassens
Branch Secretary

RAIL, TRAM & BUS UNION – NEW SOUTH WALES BRANCH
PHONE: (02) 92642511 DEPT: 34432 & 34435
WEBSITE: www.rtbu-nsw.asn.au
EMAIL: nswwho@rtbu-nsw.asn.au

your rights at work
worth fighting for



MEMBERS' BULLETIN

RAIL TRAM AND BUS UNION

RAIL, TRAM & BUS UNION – NEW SOUTH WALES BRANCH
PHONE: (02) 92642511 DEPT: 34432 & 34435
WEBSITE: www.rtbu-nsw.asn.au
EMAIL: nswwho@rtbu-nsw.asn.au

your  **ghtsatwork** 
worth fighting for