

ROAD SAFETY REMUNERATION SYSTEM

The *Road Safety Remuneration Act 2012* and the *Road Safety Remuneration (Consequential Amendments and Related Provisions) Act 2012* (the Acts) passed through Federal Parliament and received Royal Assent on 16 April 2012.

The Acts apply to employers, employees and the self-employed within the 'Road Transport Industry'. The 'Road Transport Industry' is given meaning within the following instruments:

- (a) *Road Transport and Distribution Award 2010* as in force on 1 July 2012
- (b) *Road Transport (Long Distance Operations) Award 2010* as in force on 1 July 2012
- (c) *Transport (Cash in Transit) Award 2010* as in force on 1 July 2012
- (d) *Waste Management Award 2010* as in force on 1 July 2012
- (e) Regulations by reference to a modern award specified in the regulations.

Therefore if your business has coverage under any one of these instruments, you will be deemed as an employer that operates within the 'Road Transport Industry' and subsequently bound by the Acts.

The object of the Act is to promote safety and fairness in the road transport industry by ensuring that road transport drivers do not have remuneration-related incentives to work in an unsafe manner and facilitating access to dispute resolution procedures relating to remuneration and related conditions for road transport drivers.

The Tribunal

The Act establishes the Road Safety Remuneration System consisting of the Road Safety Remuneration Tribunal and a separate compliance and education framework. The Tribunal operations came into effect on 1 July 2012.

Matters before the tribunal will be determined by members of Fair Work Commission and other appointees with relevant industry experience.

The Full Bench of the Tribunal will have jurisdiction to:

- > set pay or pay related conditions for both owner drivers and employee drivers in the road transport industry;
- > make a Road Safety Remuneration Order in a sector of the industry where it determines that pay or related conditions provide an incentive for unsafe driving practices;
- > resolve disputes between drivers and their employers, hirers or other supply chain participants, such as transport companies and retailers; and
- > address conditions about industry practices.

Collective agreements

The tribunal will have jurisdiction to authorise collective bargaining between contractor drivers and their hirers. This will see parties enter into approved collective agreements that do not include economic incentives to drive unsafely.

The tribunal will also be vested with the power to approve road transport collective agreements. In deciding whether to approve such instruments, the Tribunal will have regard to a multitude of factors, including whether the benefit of approving the agreement would outweigh the detriment to the public.

Road Transport and Distribution and Long Distance Operations Road Safety Remuneration Order 2014

Following 12 months of consultation, the [Road Transport and Distribution and Long Distance Operations Remuneration Order 2014](#) was handed down by the Road Safety Remuneration Tribunal. The order, which came into operation from 1 May 2014, was the first order made by the tribunal since its inception in July 2012.

The order applies to a road transport driver employed or engaged in the following areas:

- a) The road transport and distribution industry within the meaning of the Road Transport and Distribution Award 2010 as in force from 1 July 2012, in respect of the provision by the road transport driver of a road transport service wholly or substantially in relation to goods, wares, merchandise, material or anything whatsoever destined for sale or hire by a supermarket chain; or
- b) Long distance operations in a private transport company within the meaning of the Road Transport (Long Distance Operations) Award 2010 as in force from 1 July 2012.
- c) Independent contractors engaged to transport goods, wares, merchandise, material or anything whatsoever destined for sale or hire by a supermarket chain, or when engaged in the private transport industry within the meaning of the Road Transport (Long Distance Operations) Award 2010.

This order requires businesses to:

- > Ensure that there are written contracts for employees and independent contractors containing, as a minimum, [thirteen items](#) as specified by the order;
- > Create and implement a written drug and alcohol policy covering drivers engaged or employed by the business containing, as a minimum, [eight requirements](#) as specified by the order;
- > Prepare and implement [a safe driving plan](#) for long distance employees or independent contractors operating heavy vehicles of over 4.5 tonnes;
- > Comply with all [prescribed requirements](#) when making payments to drivers;
- > Take all reasonable measures to ensure that a road transport driver employed or engaged by a business is trained in work health and safety systems and relevant procedures. Reasonable expenses incurred by a driver in undertaking training at an employer's directive should be reimbursed.

Contractor Driver Minimum Payments Road Safety Remuneration Order 2016

On the 18th of December 2015, the Road Safety Remuneration Tribunal [handed down its second order](#), imposing new requirements on certain businesses engaging contractor drivers in the Road Transport industry. The order will come into effect on the 4th of April 2016, and will expire on the 3rd of April 2020.

The businesses subject to the order are those which engage contractor drivers in:

- a) the **road transport and distribution industry** within the meaning of the *Road Transport and Distribution Award 2010* as in force on 1 July 2012, in respect of the provision by the contractor driver of a road transport service wholly or substantially in relation to goods, wares, merchandise, material or anything whatsoever destined for sale or hire by a **supermarket chain**; or
- b) **long distance operations** in the private transport industry within the meaning of the *Road Transport (Long Distance Operations) Award 2010* as in force on 1 July 2012.



The order also imposes obligations on other participants in the supply chain, even if they do not directly engage contractor drivers.

In general terms, the order requires **businesses hiring contractor drivers "hirers"** to:

- > pay at least a minimum hourly rate and a minimum rate-per-kilometre (listed in Schedule A and B of the order)
- > permit a period of unpaid leave of up to four weeks after the contractor driver has completed a twelve month period of regular engagement. The hirer is able to refuse the request only on reasonable grounds
- > display the order and take all reasonable steps to advise contractor drivers that the order applies to them

In making its decision, the Tribunal relied on research undertaken by the National Transport Commission linking low pay rates and long hours with unsafe driving practices.

The order **may also require other businesses in the supply chain to:**

- > conduct an annual audit of a hirer's records to ensure that the hirer has complied with the order.
- > give written notice to the hirer to comply with the order if there is a suspicion of non-compliance, and;
 - o if this suspected non-compliance is not remedied, to notify the Fair Work Ombudsman

In this way, the order requires certain participants in the supply chain to take joint responsibility to ensure that contractor drivers receive at least the entitlements specified by the order, even if these drivers are engaged by a third party. For further information or to clarify your specific obligations, please contact the Workplace Relations Advice Line on **(03) 8662 5222**.

Contacting the Victorian Chamber of Commerce and Industry

The Victorian Chamber's team of experienced workplace relations advisors can assist members with a range of employment, human resources and industrial relations issues.

Our experienced workplace relations consultants can also provide assistance to both members and non-members on a range of more complex matters for a fee-for-service. The consultants can, among other things, provide training to employees, conduct investigations and provide representation at proceedings at the Fair Work Commission.

For assistance or more information, please contact the Workplace Relations Advice Line on **(03) 8662 5222**.

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