

Road Safety Remuneration Order imposing obligations on transport companies and companies which use road transport

Summary

- The *Road Transport and Distribution and Long Distance Operations Road Safety Remuneration Order 2014* operates from 1 May 2014. It applies to road transport drivers in relation to items destined for sale or hire by a supermarket chain and to long distance operations. It imposes obligations on employers and hirers of drivers as well as other businesses in the supply chain.
- The Federal Government has initiated a review of the Road Safety Remuneration System. Ai Group has made detailed submissions arguing that the system should be disbanded in favour of pursuing other initiatives more likely to improve road safety.

Road Safety Remuneration Order

The Road Safety Remuneration Tribunal (RSR Tribunal) has made a [Road Transport and Distribution and Long Distance Operations Road Safety Remuneration Order 2014](#) (Order) which comes into operation on **1 May 2014**.

The Order was a product of the RSR Tribunal's 1st Annual Work Program and is the first order made by the Tribunal.

The Order is largely based on a draft order released last year (see [Member Advice Nat 019/13](#)) but a number of important changes were made.

Who does the Order apply to?

The Order imposes obligations on hirers and employers of Road Transport Drivers (as defined in the *Road Safety Remuneration Act 2012*) to whom the order applies. Road Transport Drivers include both employee drivers and contract drivers. The Order also imposes obligations on other participants in the supply chain relating to such drivers.

The Order has implications for:

- Road transport businesses;
- Businesses with a transport function even if the transport function is ancillary to the principal operation or undertaking of the business; and
- Businesses in the manufacturing, retail and many other industries which use road transport.

The Order applies to businesses which provide or use road transport services in relation to items destined for sale or hire by a supermarket chain or as part of a long distance operation.

Specifically, the order applies to a road transport driver employed or engaged in:

- 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 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
- 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.

What is contained within the Order?

The Order:

- Implements a maximum 30 day payment term for contract drivers.
- Restricts amounts that can be deducted from payments made to drivers and restricts drivers being required to pay particular amounts.
- Requires that written contracts be provided to road transport drivers prior to their engagement, which may be in an electronic format. The contracts must include various specified provisions.
- Imposes obligations relating to contracts between supply chain participants.
- Requires that hirers or employers of road transport drivers implement Safe Driving Plans for drivers undertaking long distance operations in a motor vehicle with a gross vehicle mass (GVM) of more than 4.5 tonnes.

- Imposes obligations on hirers or employers in relation to the training of drivers in work health and safety.
- Imposes obligations on an employer or hirer of a driver in relation to written drug and alcohol policies.
- Contains provisions concerning dispute resolution and adverse conduct protection.

Most obligations in the Order are imposed on employers or hirers of road transport drivers. However there are specific obligations on supply chain participants:

- A participant in the supply chain in relation to a road transport driver must take all reasonable measures to ensure that any contract it has with another participant in the supply chain contains provisions which are relevantly consistent with the requirements of the Order. (Refer to clause 8 of the Order).
- The witnessing (with a signature) of the completion of Safe Driving Plans where this is practical except where a hirer or employer monitors the performance of Safe Driving Plans via electronic means. (Refer to subclauses 10.7 to 10.9 of the Order).
- A prohibition on supply chain participants taking adverse action against a road transport driver because the driver has, exercises or proposes to exercise, a workplace entitlement, or because the driver makes a complaint or inquiry. These provisions are similar to the general protections in the *Fair Work Act 2009* but extend to supply chain participants that may not have any direct contractual relationship with a driver.

The RSR Tribunal's 2nd Annual Work Program

Having made the above Order as part of its 1st Annual Work Program, the RSR Tribunal is now undertaking its 2nd Annual Work Program.

The above Order does not generally address rates of pay for road transport drivers. Rates of pay are being considered in the 2nd Annual Work Program.

In proceedings before the RSR Tribunal, the Transport Workers Union (TWU) is seeking:

- Specific mandatory minimum rates of pay for contract drivers of heavy vehicles;
- An obligation on hirers to reimburse contract drivers for certain business expenses;
- Additional remuneration for employee drivers beyond the entitlements in modern awards;
- The ability for drivers or the TWU to recover underpayments to drivers from any businesses in the supply chain; and
- Obligations on businesses in the supply chain to “..ensure road transport drivers receive safe and fair remuneration”.

Ai Group is strongly opposing the TWU's proposals in the Tribunal proceedings.

The Federal Government's review of the Road Safety Remuneration System

In line with its pre-election policy, the Federal Government has implemented an independent review of the *Road Safety Remuneration Act 2012* and the RSR Tribunal (together known as the “Road Safety Remuneration System”).

The purpose of the review is to assess the operation of the Road Safety Remuneration System and consider whether it represents an effective and appropriate means of addressing safety concerns in the road transport industry. Among other considerations the review is assessing the regulatory and economic burden of the System on participants in the road transport industry and the Australian economy generally. It is also examining whether other Federal and State regulations and initiatives provide a more appropriate means of improving safety in the road transport industry.

It is anticipated that a report containing recommendations for the Government will be released in the near future.

Ai Group has made strong submissions during the review identifying significant concerns regarding the operation of the Road Safety Remuneration System and calling for it to be disbanded in favour of other initiatives aimed at achieving tangible improvements in road safety.

Further information and assistance

For further information or assistance please call Ai Group's **BIZassistInfoline** on **1300 78 38 44**.

For more detailed information and advice about the current proceedings before the RSR Tribunal or the Road Safety Remuneration Order, please contact Brent Ferguson, National Advocate of Ai Group, on email brent.ferguson@aigroup.asn.au or telephone 02 9466 5530.



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