

ARTIO
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Industrial Organisation

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New South Wales Branch

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Road Safety Remuneration Tribunal Issues Draft Rates Order

On 26 August, the Road Safety Remuneration Issued a draft order entitled *Contractor Driver Minimum Payments Road Safety Remuneration Order 2016* for comment.

It is intended that this 'new' order will not sit within the existing *Road Transport and Distribution and Long Distance Operations Road Safety Remuneration Order 2014* (existing order) but sit beside it as a separate document.

For further details, please refer to ARTIO NSW Industrial Circular 9/2015 issued on 27 August.

NSW Workers Compensation Reforms Pass through State Parliament – Three Separate Agencies to be Created

A significant legislative reform package which will see the creation of three separate agencies to manage the workers compensation system for New South Wales has passed through State parliament. This follows the passage of the *Workers Compensation Amendment Bill 2015* and the *State Insurance and Care Governance Bill 2015*.

The new agencies are:

- Insurance & Care NSW. This will be an operational body which will deliver services previously under the responsibility of:
 - The Workers Compensation Nominal Insurer.
 - Lifetime Care and Support Authority.
 - Dust Diseases Board.
 - SI Corp.
 - Sporting Injuries Compensation Authority.
- State Insurance Regulatory Authority (SIRA) which will assume the regulatory functions of:
 - WorkCover NSW in relation to workers compensation insurance.
 - The Motor Accident Authority in relation to Compulsory Third Party insurance.
 - Home Building Compensation.
- SafeWork NSW will be the workplace safety regulator in NSW.

Further information is provided below.

Insurance & Care NSW

Insurance & Care NSW will be responsible for customer service delivery. This includes looking after the long term care needs of the most seriously injured and helping with return to work. According to the WorkCover NSW website, Insurance & Care NSW will also develop a less adversarial culture, reduced paperwork, more opportunities for those injured to have their say in treatment and return to work, make it easier to receive claims and track claims.

State Insurance Regulatory Authority

According to the WorkCover NSW website, the State Insurance Regulatory Authority will focus on the delivery of key public policy outcomes to injured people, affordability and effective management and sustainability of the insurance schemes.

SafeWork NSW

According to the WorkCover NSW website, aside from its role as the workplace safety regulator in NSW SafeWork NSW will focus on harm prevention and improving the workplace health and safety culture in NSW.

Ministerial responsibility for these newly created agencies rests with the Minister for Finance, Services and Property, Dominic Perrottet.

Further information can be obtained from www.insurancereforms.nsw.gov.au.

NSW Workers Compensation Reforms Pass through State Parliament – Benefits for Employers and Workers

According to the WorkCover NSW website, a range of new benefits and incentives will be available as a result of these reforms.

Benefits for Employers

The NSW Government has made a commitment to return one third of every dollar above the minimum surplus in the NSW workers compensation insurance scheme to businesses. During 2015-16 an estimated \$150 million to \$200 million will be returned to high performing employers through a performance discount.

A performance discount of between 5 and 20 per cent will apply to approximately 70 per cent of employers performing better than the scheme average. This will include employers with low workers compensation claim costs due to good safety systems and proactive support to enable injured workers to return to work safely.

All medium and large employers will receive a premium discount of 10 per cent in the form of an Employer Safety Incentive. This is designed to encourage employers to invest in safety and support systems so further benefits can be achieved.

Employers with a claims free history for four years will receive an additional 5 per cent discount. A 15 per cent discount will apply where an employer's injured workers return to work within 13 weeks. This discount will fall to 10 per cent where employees return to work within 13 to 26 weeks. A 5 per cent discount applies where workers return to work within 26 to 52 weeks.

Benefits for Workers

New benefits for workers will come into effect once proclaimed by the NSW Government. Proposed improved benefits relate to the following depending on circumstances:

- The medical benefit cap.
- Artificial aids, home and vehicle modifications.
- Lifetime medical expenses for workers with high needs.
- Return to work assistance.
- Education and retraining assistance.
- Minimum weekly payments for workers with the highest needs.
- Minimum hours for workers with the highest needs.
- Lump sum compensation.
- Death benefit lump sum amounts.
- Funeral expenses.
- Weekly payments and retiring age.
- Claims for secondary surgery.
- Suspension of a decision regarding work capacity.
- Legal costs for a review of a work capacity decision.

Further information can be obtained from www.insurancereforms.nsw.gov.au.

Fair Work Commission Upholds Employer's Right to Use Urine and Saliva Testing

(Adapted from Article Courtesy Workplace Express)

A full bench of the Fair Work Commission has upheld Port Kembla Coal Terminal's right to use both urine and saliva testing as part of its drug and alcohol enforcement policy following an appeal by the Construction, Forestry, Mining and Energy Union against an earlier FWC finding.

'While neither method (oral or urine) is fool proof, the evidence indicates that oral fluid testing will generally identify employees who have recently consumed a drug and are therefore likely to be impaired. Urine testing will identify whether an employee has taken a drug in the preceding days or even weeks – including at times when there is no serious risk that the employee will still be impaired when they attend work,' the full bench said.

The full bench also stated that both methods allowed for a wider range of drugs to be screened. The full bench said that the company would use a case management approach which provided it with the discretion to implement disciplinary action. However the company would also offer rehabilitation, counselling, participation in its Employee Assistance Program, scheduled testing and a return to work plan having regard to testing outcomes.

The full bench concluded that the advantages of a dual testing system outweighed the disadvantages and that PKCT was entitled to implement a dual random sampling system to ensure as far as practicable the health and safety of its employees and contractors at work.

'...it would be not be unjust or unreasonable for PKCT to implement it's proposed (alcohol and other drug) Standard and associated testing method,' the full bench concluded.

Editorial Comment: ARTIO NSW understands that for the first time a Full Bench of the Fair Work Commission has endorsed a drug and alcohol testing regime which includes both urine and saliva testing. The significance of this decision is that it broadens an employer's scope to manage workplace health and safety risks.

Please refer to the April, 2015 edition of *The Courier*' for earlier coverage of this matter.

Construction, Forestry, Mining and Energy Union – Construction and General Division v Port Kembla Coal Terminal Limited (C2015/2695) (19 August 2015)

Productivity Commission Releases Draft Report into Australia's Workplace Relations Framework

(Article courtesy of Queensland Trucking Association 'Transporter News Brief')

The Productivity Commission (PC) handed down its draft Report into Australia's Workplace Relations Framework.

In summary the draft report makes recommendations encompassing some 25 chapters.

The most relevant recommendations for the road transport industry include:

- The separation of the Fair Work Commission into two bodies; one being a Tribunal division, whilst the other to establish minimum standards and deal with modern awards.
- Re-instatement to be removed as the primary remedy in unfair dismissal matters with cases being determined 'on the papers' rather than by conciliation or hearing.
- The removal of the four year review of modern awards.
- Sunday rates to become the same as Saturday rates and in some service industries only (hotels, cafes, restaurants, not road transport). Casuals and permanent employees would get the same rate on weekends.
- An enterprise agreement maximum period of five years (currently four years) with a change for the better off overall test to a no disadvantage test against other like classes of employees rather than the relevant modern award.
- Introduction of "enterprise contracts" to fill a perceived gap between individual arrangements and enterprise agreements. The PC said the contracts would allow an employer to vary an award for entire classes of employees or for a group of particular employees, without having to negotiate individual flexibility arrangements (IFAs) with each individual or to form an enterprise agreement.
- Outlawing terms in enterprise agreements that restrict independent contractors, labour hire and casual workers.
- Watering down of the right to take protected action, by giving to the Fair Work Commission the discretion to withhold a protected action ballot order where it appears the protected action is just being used as an industrial tactic.
- Powers being given to the Fair Work Commission to limit the frequency of union right of entry restricting visits to two every 90 days if they do not have any members and the particular workplace.

The PC will also seek feedback to restrain pattern bargaining where it was imposed through 'excessive leverage or is likely to be anti-competitive'.

The draft report is available on the PC's website, www.pc.gov.au.

Written submissions and comments have been invited by 18 September 2015, whilst public hearings have been set down for September 2015.

It is anticipated that the final report with recommendations will be released in November 2015.

Editorial Comment: Members should not at this point be altering any current practice as a consequence of this PC Draft report. When the final report is released, it is the prerogative of the Government of the day to determine its reaction to the Report and consequently any legislative or regulatory change. It is likely that 'much water will flow under the bridge' before we have a clear public expression by the major political parties as to their final reaction to the work of the PC.

Senate Inquiry Possible on Trucking Payment Terms as ALP, Nationals Senators Join Forces

Nationals Senator for NSW, John Williams, and Labor Senator for WA, Glenn Sterle, have issued a joint statement warning big businesses against undermining the sustainability of trucking businesses. The two senators said they are considering a range of options, including a Senate inquiry in order to ensure payments to transport operators are made in a period no longer than 30 days.

In a joint media release issued on 13 August the two Senators, both of whom are former truck drivers, criticised 'some major Australian retailers and big business' in support of transport companies and their workers.

Senator Williams said he has sighted a memo from a customer to a transport company which said the company would be paid in 90 days after the month in which the invoice was generated.

'This is outrageous. The transport company has to pay its drivers and staff in 7 days, it has to pay its fuel bill in 30 days, plus parts suppliers and finance payments at the end of each month,' Senator Williams said.

'If one of these companies fails and cannot pay their suppliers, the transport company can be hundreds of thousands of dollars out of pocket. This can only lead to dangerous cost cutting and a lowering of industry standards,' Senator Sterle said.

Senator Sterle said '(t)he intent of the Road Safety Remuneration Tribunal's first order is for transport companies to be paid in a timely manner, but this is obviously being ignored'.

Adelaide Trucking Operator's Long Jail Sentence after Driver's Death

(Adapted from Article Courtesy ABC News)

The owner of Peter Colbert Transport, Peter Colbert, has been sent to 12 and a half years' jail with a non-parole period of 10 years following the death in March last year of Robert Brimson, a former employee.

On 21 August, a jury in the Supreme Court of South Australia found Colbert guilty of manslaughter after it was told that Colbert had been repeatedly warned about the truck's faulty brakes. He was also convicted of endangering the life of another company driver two days before the fatal crash.

The Supreme Court heard that Brimson took action to avoid heavy traffic immediately before the truck he was driving slammed into a pole.

Justice Peek referred to a psychological report on Colbert as well as his record of previous offences.

He said Colbert showed 'a lack of concern...for the effects that (his) conduct will have on other people'.

Colbert had taken over the company in January 2014.

Colbert has also been banned from driving until a further court order is issued.

DP World Releases Details on Real Time Customer Portal

DP World Australia has announced the launch of its new Customer Portal, offering what it describes as an 'unparalleled insight into its terminal operations' at a launch event held on 12 August.

According to DP World Australia Chief Commercial Officer, Max Kruse the new Customer Portal will display live data from the DP World Australia Terminal Operating System. He also said that users will be able to search for performance data across all or multiple terminals with a single sign on.

He said that dashboards displaying Key Performance Indicators for DP World Australia's container, vessel and road operations are standard throughout the portal, giving customers reliable data for their own scheduling.

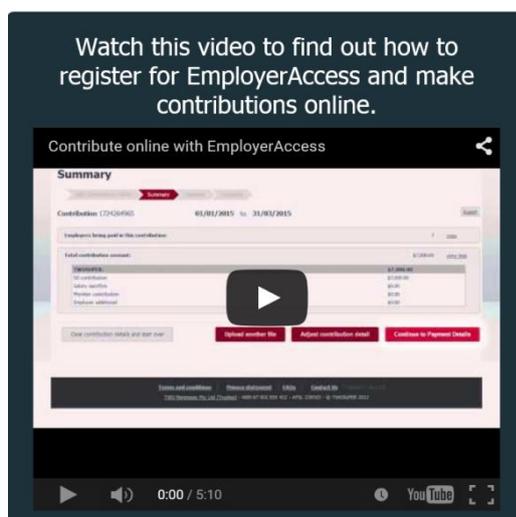
'The system offers the live status of slot utilisation each day with the ability to see road transport slots which have not been taken up and are available at each terminal and zone', Mr Kruse said.

The Customer Portal is available at www.customer.dpworld.com.au.

Further information is available from Ravi Sheshadri, General Manager Commercial, tel: 9394 0983, email: ravi.sheshadri@dpworld.com.au.

TWUSUPER Super News August 2015

How to register to pay super online



We've made it easy to pay your super online and meet the SuperStream requirements through *EmployerAccess*.

This 5 minute video will walk you through the process – go to july1.twusuper.com.au to get started.

You can also call the TWUSUPER Employer Service team on **1800 241 877** from 8am to 8pm (AEST/AEDT) weekdays if you have any questions about using *EmployerAccess*.

20 or more employees? SuperStream is here, now

If your business has 20 or more employees, you now need to meet the Government's SuperStream data standards when providing information to super funds such as TWUSUPER.

This means providing contribution data online – emailed data is no longer allowed.

TWUSUPER has a simple solution – *EmployerAccess*.

The ATO has stated it understands some businesses may have not made the 1 July deadline, and will not take immediate compliance action if the deadline has been missed. However, employers should act now as the ATO's flexible approach only extends until 31 October 2015.

For more information go to july1.twusuper.com.au.

Employers: We have the solution

Attention ALL employers

By 1 July 2016, all employers must meet the government's new minimum data standards when providing information to super funds.

Employers must also provide contribution data online. Emailed data will no longer be accepted.

Note: If you have 20 or more employees, you should have made this change by 1 July 2015, although the Tax Office will exercise some leniency if you make the change any time between that date and 31 October 2015. Please fill out the form below to speak to our Employer Service team.

Register for EmployerAccess.

Register now

10 06 09 37 43
MONTHS DAYS HOURS MINS SECS

Watch this video to find out how to register for EmployerAccess and make contributions online.

Contribute online with EmployerAccess

Updated PDS and reference documents now apply from 1 July 2015

A new Product Disclosure Statement (PDS) and supporting reference documents have been effective since 1 July 2015.

Please destroy any copies of the PDS or reference documents dated before 1 July 2015 that you may have. For printed copies of updated material, please call our Employer Service team on **1800 241 877** or email employerservice@twusuper.com.au

This information is of a general nature only and does not take into account your objectives, financial situation or needs. Before acting on this information, you should consider its appropriateness having regard to your objectives, financial situation and needs. A copy of TWUSUPER's current Product Disclosure Statement should be obtained from us (by calling 1800 222 071 or visiting twusuper.com.au) and considered carefully before you make a decision in connection with TWUSUPER. TWU Nominees Pty Ltd ABN 67 002 835 412, AFSL 239163, is the trustee of TWUSUPER ABN 77 343 563 307 and the issuer of interests in it. Transuper and TransPersonal are divisions of TWUSUPER

Fuel Tax Credit Rate

The fuel tax credit rate for fuel purchased for on-road use in eligible heavy vehicles has increased from 12.06 cents per litre to 13.06 cents per litre effective 1 August. The fuel tax credit rate for powering auxiliary equipment has also increased from 38.9 cents per litre to 39.2 cents per litre.

Transport operators will need to claim different fuel tax credit rates for fuel acquired before and from 1 August. The Australian Taxation Office recommends that all transport operators use their online fuel tax credit calculator to get fuel tax credit rates correct for your Business Activity Statement. This calculator can be viewed at www.ato.gov.au/Calculators-and-tools/Fuel-tax-credit-calculator.

Further information about these changes is available at www.ato.gov.au/Business/Fuel-schemes.

Economic and Industry Indicators

Indicator/Source ¹	As at	Unit of Measure	Quantity	% Variation
GDP latest quarter (ABS)	Mar 2015 quarter	\$m	400,039	2.2
CPI (ABS)	Jun Qtr 2015	Per cent		1.5
Cash rate (RBA)	Current	Per cent	2.00	
Estimated Residential Population (ABS)	Dec 2014 quarter	Number	23,625.6	1.4
Retail Turnover (ABS)	Jun 2015	\$m	24,299.9	4.7
Actual New Capital Expenditure (ABS)	Jun 2015 quarter	\$m	35,413	-10.0
Inventories held by private business (ABS)	Jun 2015	\$m	150,853	0.8
Dwelling unit approvals (ABS)	Jun 2015	Number	18,724	14.4
Manufacturers Income (ABS)	Jun 2015	\$m	82,371	-6.4
Employed persons (ABS)	Jul 2015	Number	11,797.3	2.1
Unemployed persons (ABS)	Jul 2015	Percentage	6.1	0.0
Wage Price Index (ABS)	Jun 2015 quarter	Per cent		
All employees				2.3
Transport, postal and warehousing				2.2
New motor vehicle sales (ABS)	Jul 2015	Number	96,392	3.7
Cab Chassis/Prime Mover Sales (TIC)	6 months ending June 2015	Number	12283	1.0
Vans (TIC)	6 months ending June 2015	Number	2857	29.9
TEU Port Botany	Year ending March 2015	Number	1,729,628	3.1
AIP Terminal Gate Price-Diesel-Sydney	As at 31 Aug	Cents per litre	111.6	

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¹ ABS – Australian Bureau of Statistics; RBA – Reserve Bank of Australia; AIP – Australian Institute of Petroleum; TIC – Truck Industry Council/’Prime Mover’ latest issue; BITRE – Bureau of Industry, Transport and Regional Economics