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The Courier

Information and Advice for NSW Transport Operators

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Contents

1. Fair Work Ombudsman Reminds Advisers of their Responsibilities under Workplace Laws
2. RMS Launches Updated Driver License Check
3. 9 August is Census Night – Advice for Transport Operators
4. Annual CPI Falls to Lowest Level Since 1999
5. National Truck Accident Research Centre Releases Heavy Vehicle Crash Centre Report
6. New NTC Program to Tackle Australia's Biggest Emerging Transport Challenges
7. NHVR to Roll Out First National Heavy Vehicle Health Check
8. NTC Releases Proposed Changes to Australian Dangerous Goods Code for Public Consultation
9. Call for National Road Safety Minister
10. NHVR Slashes Permits for Heavy Haulage Operators
11. 14 Central NSW Councils Back PBS
12. Transport Industry – General Carriers Contract Determination: Stage 2 Negotiations – Rates: Update
13. Minister Announces Commencement of WestConnex Tunnelling
14. TWUSUPER Super News July 2016
15. Economic and Industry Indicators

Fair Work Ombudsman Reminds Advisers of their Responsibilities under Workplace Laws

The Fair Work Ombudsman, Natalie James, has reminded managers with human resources, corporate advisory and related duties of their responsibilities as advisers to a CEO and company board in an address to the Australian Human Resources Institute (AHRI) Employee Relations / Industrial Relations Network NSW on 27 July.

Ms James said responsibilities extend to identifying and articulating the risks, pitfalls and possible consequences they may have not identified even after a course of action has already been embarked upon.

She said examples may include finding a problem with something the organisation has done such as a systems error that means people have been paid incorrectly or a process such as dismissal has not been executed properly.

She said advisers need to constantly balance their professional and ethical responsibilities, including the need to work with the organisation to help it achieve its strategic goals and the need to broker solutions, not just raise problems.

Ms James said advisers must explain rules to clients, make it clear when they are in danger of breaking them and not become involved in breaches of the law.

This is because through section 550 of the *Fair Work Act*, an adviser involved in facilitating a breach of the law, is personally at risk of being found to be an accessory.

She said the FWO always carefully considers the role of individuals in breaches of workplace laws, and considers whether any enforcement action should be extended to them.

She said the Federal Government has made election commitments to enhance the tools available to the FWO to hold people involved in breaches of workplace laws to account.

Ms James said the FWO is increasingly using s.550 to ensure that someone is held to account when it finds deliberate exploitation of vulnerable workers. This occurs by reinforcing the critical roles and responsibilities of the key personnel involved in the breach—whether they are company directors or advisers.

She said accessorial liability provisions in s.550 extend to situations where a company might not continue to solvently operate, to the contracting out of work to other businesses and cover areas relating to vulnerable employees as well as to the acts or omissions of third parties such as accountants, labour hire companies or lawyers.

Staff exposed to contraventions under s.550 have included human resources staff, administration managers, staff engaged to assist with recruitment and supervision and other companies or individuals involved through a supply chain or franchise network.

She said the FWO considers the part the personnel concerned have played in the conduct and whether the conduct was deliberate.

A copy of Ms James' address is available from <https://www.fairwork.gov.au/about-us/news-and-media-releases>.

RMS Launches Updated Driver License Check

Roads and Maritime Services has advised that it has updated its Driver Licence and Demerit Point Check service so that it is now available to heavy vehicle operators to help them determine if their drivers are appropriately licensed. The updated service will allow the checking of multiple driver licences in one transaction as well as a longer term Driver Consent Form. RMS says that the updated service is designed to assist the road freight industry operate safely and compliantly.

Validation of information held by RMS is subject to stringent privacy and permitted use arrangements, in accordance with the *Privacy and Personal Information Protection Act 1998* and the *Road Transport Act 2013*.

A user (heavy vehicle operator) must have the express consent of their employee (driver) to check their licence and demerit point status. An online enquiry will not be able to be completed without confirmation of this consent. Each user must apply to RMS for approval to use the updated Driver Licence and Demerit Point Check service.

Prospective users should note that access to this service will require the signing of a Disclosure Agreement with RMS. This agreement requires significant undertakings by users in relation to permitted use, record-keeping, administration, auditing and privacy conditions.

Further information for new users is available from www.myrta.com/tpe/pages/content/aboutUs.jsf. New users will also need to complete a disclosure statement relating to this updated service which is available from www.myrta.applications/tpe/tpe.eoi.conditions.html. Existing users can access this updated service through their existing log in details.

9 August is Census Night – Advice for Transport Operators

The 2016 Census is quickly approaching. Transport operators should ensure long haul truck drivers take note of the following which has been provided by the Australian Bureau of Statistics:

- Online is the preferred method for completing the 2016 Census.
- On 9 and 10 August ABS Field Officers will be handing out Census forms with an online log-in code and a Reply paid Envelope at pre-identified truck/rest stops.
- Drivers should aim to complete the form electronically at the identified area if able, or when next in a coverage area. Their form will need to include any persons in their vehicle.
- If not in a pre-identified area, drivers should contact the Census Inquiry Service telephone 1300 214 531 to obtain a log-on code. Paper forms will not be sent to drivers in transit.
- The driver's household will receive a log-in code. Unless at home, the ABS would like the driver to fill in the form where they are on Census night, noting their address as their usual place of residence. (Drivers away from their usual place of residence on 9 August should not be included in their Census form at home – other than questions 52 and 53.)

More information for remote travellers can be found [here](#).

Annual CPI Falls to Lowest Level Since 1999

The Consumer Price Index rose by 0.4 per cent in the June 2016 quarter, according to the Australian Bureau of Statistics. The ABS said the the CPI for the year ending 31 June fell to 1 per cent, the lowest level for the annual rate of inflation since 1999. This compares to a CPI for the year ending 31 March of 1.3 per cent.

There is a long standing bipartisan policy in Australia which aims to ensure inflation as measured by the CPI remains within a 2% to 3% band. Trends in CPI can play a role in the setting of official interest rates by the Reserve Bank of Australia. Other things being equal, a lower CPI increases the likelihood of a reduction in official interest rates and vice versa.

National Truck Accident Research Centre Releases Heavy Vehicle Crash Centre Report

The National Truck Accident Research Centre which is operated by National Transport Insurance has released findings of its latest study into heavy vehicle crash incidents in Australia.

This study analyses heavy motor vehicle losses managed by NTI valued at over \$5,000 between 2011 and 2015.

National Director of Research Owen Driscoll said this is the largest ever study into heavy vehicle incidents across Australia.

'This analysis reviewed 14,000 incidents where NTI contributed close to \$500m over a five year period. Of course it will be the precursor to the early 2017 release of the seventh in the series of *Major Truck Crash Incidents* over \$50,000, which NTARC publishes biennially,' Mr Driscoll said.

'Whilst we have not reviewed those incidents 'off the network' involving farming, mining and earthmoving sectors, this is the first study where we have independently identified specific State results. Furthermore, our research previously has been limited to larger losses and with the focus of this study for generally all on-road losses, the findings are quite interesting.'

Mr Driscoll said that in time a comprehensive research report will be forthcoming, although for now this is a snapshot of the study.

The study found:

- 44% of reported incidents were single vehicle accidents with the remainder involving individual or multiple third party vehicle(s).
- In single vehicle crashes, the top four predominant causes were identified:
 - Inappropriate speed for the prevailing conditions – 14.4%.
 - Fatigue influenced crashes – 7.4%.
 - Mechanical, although the majority related to tyre failure and non-accident related fires - 7.2%.
 - Animal strike – one out of every seven reported single vehicle accidents involve hitting animals, mostly cattle and kangaroos.
- In multiple vehicle incidents, which accounts for 56%, we found that:
 - On 68% of the reports, the truck was responsible for the loss, although we are reminded that in fatal incidents involving other traffic, the lighter vehicle is usually held to account.
 - 34% of the incidents involved the heavy vehicle impacting the rear of the other vehicle.
 - 14% where the insured unit struck third parties when changing lanes.
 - 11% in cases where the driver of the heavy vehicle failed to give way.
- In reported losses involving mechanical and vehicle operating issues:
 - Tyre failure due to over or under inflation, heat, road conditions or defects accounted for 32% of reported incidents with consequential vehicle damage.
 - One in every five losses on this issue were contributed to truck or trailer fires, with the seat causal factor usually wiring and electrical.
 - There is an increasing trend in turntable/ring failure due to incorrect coupling, higher stress factors associated with increased capacity of dog trailers and general maintenance to cover wear and tear. This accounted for 17% of associated mechanical issues.
 - Losses attributed to brake and steering failure were inconsequential.
- Otherwise it was established that;
 - In States such as NSW and Victoria where traffic density is proportionately higher, NTI experienced more incidents involving third parties. There is a crash incident rate of one loss per 37 items insured in NSW, in contrast to the Northern Territory where it was one incident for every 66 items, although, the average cost of losses in the NT was substantially greater.
 - As is the case with the Major Crash studies, most incidents occur on outbound journeys from home base and usually early in the week.
 - Whilst December was consistently the quietest month, there was no specific month that was noted as any worse than the other.
- When it came to the average ages of drivers involved:
 - The oldest come from Queensland and the youngest from the NT.
 - Overall nationally, the average age was 45 years 248 days.
 - 40% were over the age of 50 years with one in every 4.2 drivers in the study were over 55.

- Those under 25 years recorded 4% of losses, not indicative of the quality of their driving but rather indicative of the fact that proportionally the trucking industry does not attract many from this age group.

New NTC Program to Tackle Australia's Biggest Emerging Transport Challenges

The National Transport Commission has released a new work program that includes bolder and more strategic projects that are designed to identify and address the transport problems of the future.

Chief Executive of the NTC Paul Retter said there was little point waiting for transport problems to occur before taking action.

'Australia is undergoing rapid technological, social and economic changes which will result in the biggest transformations to our transport system since the invention of the motor car,' Mr Retter said.

'This work program reflects the need for the NTC to undertake bolder, more strategic reforms to ensure we are ready for the future.

'Australia can't afford to sit back and wait for issues affecting our transport system to arise. We need to look to the future now and work together to resolve the challenges we can already see on the horizon.'

This type of strategic work the NTC will undertake includes:

- Preparing for automated vehicles.
- Developing a framework to guide future productivity improvements.
- Developing options to improve the mechanisms and processes for setting and collecting road user charges.
- Filling information gaps to provide evidence as a basis for future reforms.
- Examining ways that the regulatory landscape will need to change in the lead up to 2040.

'Strategic analysis work like Land Transport Regulation 2040 is one way we will develop a larger evidence base for the longer-term reforms we will need for the future,' Mr Retter said.

'It will help us identify plausible scenarios and start the process of developing policy and regulatory responses to the challenges we are likely to face in the future.'

As well as these strategic projects, NTC's work program includes a small number of operational policy projects, as well as ongoing maintenance work on national laws, model laws and administrative guidelines.

In the future, operational policy work will be increasingly undertaken by the national heavy vehicle and rail safety regulators, as recommended in the outcomes of the 2015 NTC Review.

The NTC's 2016-2020 Work Program has been endorsed by Transport and Infrastructure Council ministers and is now available from www.ntc.gov.au.

NHVR to Roll Out First National Heavy Vehicle Health Check

The National Heavy Vehicle Regulator has taken another major step to improving heavy vehicle safety with the rollout of the National Roadworthiness Baseline Survey (NRBS) on August 1, running for around eight weeks.

The health check will deliver a snapshot of Australia's heavy vehicle fleet.

It will involve the inspection of 9000 heavy vehicles, or about 1.7 per cent of the entire national fleet.

Randomly selected vehicles will include rigid trucks, semi-trailers, B-doubles, road trains, buses, plant and equipment.

Some inspections such as buses may be carried out at inspection stations or depots by arrangement.

The health check will baseline the condition of the heavy vehicle fleet, including those in the Northern Territory and Western Australia.

Results will allow the NHVR to measure future roadworthiness reform projects and will be a key building block of a consistent inspection policy. The inspections include a roller brake test and an intensive inspection of the mechanical condition of the vehicle.

In the likelihood that a vehicle might be randomly selected for an inspection, the NHVR is advising operators that they should consider the possible impact on their operations. The majority of industry will not be impacted by the health check. However, some inspections may take as long as 45 minutes depending on the size of the combination and the condition of the vehicle.

It is important that drivers, schedulers and others in the supply chain are aware of the potential for delays during the two months of the health check.

Inspections are aligned to the recently published *National Heavy Vehicle Inspection Manual (NHVIM) Version 2.1*. The NHVIM sets the national inspection standard for the management of heavy vehicle roadworthiness. Authorised officers and vehicle examiners can now inspect heavy vehicles with a consistent set of national criteria.

This is just one of a number of NHVR projects to ensure heavy vehicles operate safely on Australia's roads. NHVR's commitment to delivering national harmonisation in the area of vehicle inspections recognises that trucks do not stop at borders. The health check will deliver a clear picture of roadworthiness.

Further information visit www.nhvr.gov.au/nrbs.

NTC Releases Proposed Changes to Australian Dangerous Goods Code for Public Consultation

The National Transport Commission has released proposed improvements to the Australian Code for the Transport of Dangerous Goods by Road and Rail.

Chief Executive of the NTC Paul Retter said the proposed Code included changes to help align it with the latest UN recommendations (UN19), specific Australian changes and improvements to rules governing the transport of dangerous goods in limited quantities amounts, as approved in-principle by the Ministerial Council in 2015.

'We continually update the Code to keep Australians safe and to cut unnecessary red tape on business,' Mr Retter said.

Mr Retter said the proposed changes would cut the red tape faced by people transporting limited quantities of household and personal care goods classified as dangerous, implement a common placard limit of two tonnes for all movements of limited quantities of goods classified as dangerous, and allow retail packages of very small quantities of goods classified as dangerous to be transported in a mixed package to be carried as general freight.

'These changes have been designed to help businesses get their goods to market efficiently without imposing a detectable level of risk to the Australian public,' Mr Retter said.

'However we are keen to hear from a range of views about whether they are an appropriate and effective way of doing this.'

Mr Retter encouraged dangerous goods technical experts, chemical manufacturers and importers, the Australian transport industry, and other stakeholders to have their say on the proposed changes by 9 August 2016.

Submissions can be made through www.ntc.gov.au/current-projects/australian-dangerous-goods-code-maintenance.

For further enquiries contact the Project Manager, Philippa Thode, email pthode@ntc.gov.au

Further Dangerous Goods Code information can be found at www.ntc.gov.au/heavy-vehicles/safety/australian-dangerous-goods-code.

Call for National Road Safety Minister

The Australian Automobile Association, the Australasian New Car Assessment Program and the Australasian College of Road Safety have issued a joint statement calling on the Prime Minister to appoint a dedicated road safety minister.

Their call, in a joint media release issued on 17 July before ministerial appointments were announced, follows the release of figures by the Bureau of Infrastructure, Transport and Regional Economics which show a 10 per cent increase in the national road toll to 643 fatalities in the six months ending 30 June 2016 compared to the corresponding period in 2015.

These organisations also point to a worsening trend in the past two years which saw the national road toll for this six monthly period increase from 524 in 2014 to 580 in 2015.

NHVR Slashes Permits for Heavy Haulage Operators

The National Heavy Vehicle Regulator (NHVR) has slashed nearly 25,000 permits while still maintaining a high standard of safety for Australian heavy haulage vehicles.

NHVR CEO, Sal Petrocchio said this is great news for Oversize and Over Mass operators within the freight and transport industry who will no longer have to wait for their permits to be approved to get on the road.

'This time off the road is costly for freight businesses, especially small transport operators who work within smaller margins, and whatever we can do to make their lives easier while still ensuring a high-level of safety is paramount.

'The release of the Notices followed two weeks of consultation to ensure they meet the needs of the OSOM industry,' Mr Petrocchio said.

The OSOM Notices, with effect 11 July, remove the requirement for annual permits for Class 1 Load Carrying Oversize and Over Mass vehicles in Victoria, NSW and South Australia.

'The Notices are a crucial step forward towards national harmonisation. They will cover almost one-third of the number of permits issued in 2015.

'It is a deliberate move to improve transparency and certainty of access, reduce red tape and allow the NHVR and road managers to better understand the existing differences across borders.

'The Notices will replace existing permit-based schemes in Victoria, NSW and South Australia to allow industry to operate more effectively and efficiently.'

Mr Petrocchio said while most conditions remain the same within each state, there has been some productivity gains, including increased allowable mass to 100 tonnes in NSW.

Discussions will continue with the Queensland Government with respect to their participation in the Overmass Notice to replace existing period permits.

Tasmania and the NHVR have developed a separate OSOM Notice which was published in November 2015.

14 Central Western NSW Councils Back PBS

The National Heavy Vehicle Regulator has advised that fourteen Central New South Wales council group members have agreed to participate in the Performance Based Standards network for level 1 or 2A vehicles.

The councils have thrown their support behind the PBS network because it offers greater efficiency while not compromising on safety.

Further information is available from www.nhvr.gov.au/news/2016/07/06/same-freight-less-trucks-for-central-western-nsw.

Transport Industry – General Carriers Contract Determination: Stage 2 Negotiations – Rates: Update

Constructive discussions are underway amongst employer organisations aimed at finding common ground in opposition to the TWU's application for rates variations under the Transport Industry – General Carriers Contract Determination.

The NSW Industrial Relations Commission has determined a timetable for the lodgement of evidence, to respond to evidence lodged and to hear the matter. Several days have been set aside in September and October to hear argument from both parties.

Members will recall the Transport Industry – General Carriers Contract Determination was varied by the Industrial Relations Commission of NSW and the variation become operative on 2 July 2016 – please refer to ARTIO NSW Industrial Circular 12/2016 dated 22 June.

Minister Announces Commencement of WestConnex Tunnelling

Tunnelling associated with the construction of the first WestConnex tunnel has commenced according to the Minister for Roads, Duncan Gay. In a media release issued on 18 July, Mr Gay said road headers are working at each end of the proposed 5.5 kilometre tunnel from Homebush to Haberfield.

TWUSUPER Super News July 2016

Why we need your employees' correct contact details

The Fund will be sending annual statements to members towards the end of September. So now is a good time to remind you that it's important to ensure accurate employee details are provided to the Fund. This is especially true when making super contributions on behalf of a member for the first time, whether through Employer Access or a super clearing house.

Here's a checklist for the employee details that it's critical you get right:

- full name
- date of birth
- email address
- postal address
- preferred phone
- TFN.

Providing the correct personal details for your employees helps the Fund comply with privacy standards should we need to contact members on personal matters.

The 2016 Federal election and super

With the re-election of the Coalition Government confirmed, the Fund is awaiting news from Canberra regarding changes to super that were proposed in the 2016 Federal Budget.

Much of the 2016 Federal Budget requires the passage of legislation through both houses of the new Parliament, and the Fund will inform employers of potential changes to super as news comes to hand.

SG contributions due 28 July

Employers must pay Super Guarantee payments of at least 9.5% to eligible employees at least four times a year, and the ATO can apply the Super Guarantee Charge if payments are not made by the quarterly deadlines. SG contributions for the 1 April – 30 June quarter are due no later than 28 July.

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Economic and Industry Indicators

Indicator/Source ¹	As at	Unit of Measure	Quantity	% Variation
GDP latest quarter (ABS)	Mar Qtr 2016	\$m	419,560	3.2
CPI (ABS)	Jun Qtr 2016	Per cent		1.0
Cash rate (RBA)	Current	Per cent	1.75	
Estimated Residential Population (ABS)	As at 29 Jul 2016	Million	24.143	
Retail Turnover (ABS)	May 2016	\$m	25,014	3.3
Actual New Capital Expenditure (ABS)	Mar Qtr 2016	\$m	30,724	-15.4
Inventories held by private business (ABS)	Mar Qtr 2016	\$m	154,771	0.3
Dwelling unit approvals (ABS)	May 2016	Number	19,850	-2.2
Manufacturers Income (ABS)	Mar 2016	\$m	82,083	-4.0
Employed persons (ABS)	May 2016	Million	11,933	1.8
Unemployed persons (ABS)	Jun 2016	Percentage	5.7	-0.4
Wage Price Index (ABS)	Mar Qtr 2016	Per cent		
All employees				2.1
Transport, postal and warehousing				2.1
New motor vehicle sales (ABS)	Jun 2016	Number	97,801	2.0
Cab Chassis/Prime Mover Sales (TIC)	5 months ending May 2016	Number	9912	4.2
Vans (TIC)	5 months ending May 2016	Number	2213	1.3
AIP Terminal Gate Price-Diesel-Sydney	As at 29 Jul 2016	Cents per litre	103.3	

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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.