



ARTIO

Australian Road Transport
Industrial Organisation

The Courier

Information and Advice for NSW Transport Operators

New South Wales Branch

Newsletter Vol. 1 No. 8: October 2015

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ARTIO Lodges Reply Submissions in Relation to the Road Safety Remuneration Tribunal Draft Rates Order

The Australian Road Transport Industrial Organisation has made a further submission to the Road Safety Remuneration Tribunal's (RSRT) in relation to its draft Order pertaining to Payments for 'Contractor Drivers' (Owner Drivers). This submission was a reply submission which focussed on matters raised in submissions lodged by other parties. ARTIO's submission focused on two areas, jurisdictional issues and concerns raised by employer parties, including ARTIO.

Jurisdictional issues raised appear to relate to whether the making of, and/or compliance with, the draft order would lead to breaches of other legislation and whether elements of the draft order are beyond the RSRT's power. ARTIO submitted that in order for there to be certainty around the issuing of any order that these matters ought to be prioritised and determined separately before the substantive contents of the order are progressed any further.

ARTIO also noted that the concerns raised in its submissions are similar to concerns raised by other employer parties in relation to areas such as:

- The supply chain contracts clause being impractical and cumbersome,
- Fatigue breaks as work time,
- Absence of alternative remuneration systems and recognition of current industry remuneration practices.
- The need to carve out specialist industry sectors from the order.

- The need for clarity around part/split loads and backloading.
- Deficiencies in the KPMG model.

A full copy of ARTIO's reply submission can be found at:

www.rsrt.gov.au/default/assets/File/3rd_AWP/draft-Payments-RSRO/ARTIO-draft-Payments-RSRO-Submission-in-reply-071015.pdf.

Alternatively, contact the ARTIO NSW office, email, hughmc@hmcconsulting.com.au, tel 0412 880861.

ARTIO Participates in Road Safety Remuneration Tribunal Draft Rates Order Hearings

The Road Safety Remuneration Tribunal (RSRT) conducted hearings over four days from 22 to 25 October to consider submissions from parties and to allow for cross-examination of 17 witnesses who lodged witness statements related to these hearings. Travis Degen represented ARTIO at these hearings.

The KPMG report and cost model was subject to critical analysis as a result of submissions from the Retail Council which identified a range of flaws in their modelling. This submission was supported by actual figures and evidence about vehicle utilisation and fuel burn assumptions from Toll and Linfox. ARTIO's assessment is that the RSRT will have little option but not to use the KPMG report and cost model in its current form. The RSRT has invited the Retail Council, Toll and Linfox to submit further evidence in relation to operating costs. It can be expected that this work would contribute towards the development of a rate. This work is likely to focus on the supermarket sector.

Further amendments to the order are also possible following evidence heard on the application of the order in areas such as audit requirements, current payment methods and payment for rest time.

It is unclear when the Tribunal will issue a decision or statement however nothing is likely to eventuate for a few weeks. This in turn throws into doubt any order commencing on 1 January 2016.

ARTIO NSW Lodges Submissions in Relation to the Transport Industry – General Carriers Contract Determination

ARTIO NSW has lodged submissions with the NSW Industrial Relations Commission in response to separate amended applications from the Transport Workers Union of New South Wales and the NSW Business Chamber seeking a new Transport Industry – General Carriers Contract Determination.

ARTIO NSW has previously held negotiations directly with the TWU on its application. On other occasions, negotiations with the TWU have been held jointly with the NSW Business Chamber as employer representatives. The two applications have many common clauses which reflect progress which was achieved in negotiations with the TWU. However, there remain differences in a number of areas.

The application sought by the NSW Business Chamber essentially reflects the position it put with ARTIO NSW in those negotiations. This means that where the applications differ, the ARTIO NSW submission generally expresses support for the NSW Business Chamber position as opposed to the TWU position. In some instances the ARTIO NSW submission differs from the NSW Business Chamber position. Where the ARTIO NSW submission differs from the NSW Business Chamber position, this generally arises due to differences in membership profile. There are no proposed clauses where ARTIO NSW in its submissions indicates a preference for the TWU's position.

A week has been set aside to hear argument and to cross-examine witnesses from 16 to 20 November.

These submissions and hearings only relate to Stage 1 of the development of a new Determination. Stage 1 relates to all non-rates matters and involves arbitration because conciliation has been exhausted. Stage 2 relates to rates matters. Stage 2 is still subject to conciliation.

Fair Work Commission Finds Facebook Defriending and Schoolgirl Taunt Contributed to Bullying

(Article courtesy of Workplace Express)

A Launceston real estate agent's last minute implementation of a new anti-bullying policy was not enough to prevent the Fair Work Commission from ordering it to cease bullying a property consultant that its sales administrator deleted as a Facebook friend after likening her to a 'naughty little schoolgirl running to the teacher'.

The property consultant successfully made out 8 of 18 allegations against the sales administrator and the company and demonstrated links to her diagnosis of depression and anxiety.

However, allegations of bullying were not proved.

Deputy President Nicole Wells said the sales administrator dealt with the property manager in a 'provocative and disabbling' way and that by deleting her as a Facebook friend immediately after the incident she had taken 'the first opportunity to draw the line under the relationship'.

'This action by (the sales administrator) evinces a lack of emotional maturity and is indicative of unreasonable behaviour', Deputy President Wells said.

Other actions that contributed to the bullying included deliberately delaying administrative work for property listings, belittling and humiliating her, speaking abruptly, ignoring her, treating her differently and failing to greet her each morning.

She also acted unreasonably to damage the reputation of the property consultant.

A medical certificate tendered declared that the property consultant was 'fit to return to normal duties so long as the...Commission hearing occurs and anti-bullying measures are put in place in the workplace'.

Deputy President Wells rejected arguments on behalf of the employer that there was no risk of anti-bullying behaviour in the future because an anti-bullying policy and manual had been established.

She said that there was a risk of such behaviour because the co-director and sales administrator 'did not consider that any of the behaviour complained of constituted bullying'.

Mrs Rachel Roberts v VIEW Launceston Pty Ltd as trustee for the VIEW Launceston Unit Trust T/A View Launceston; Ms Lisa Bird; Mr James Bird (2015) FWC 6556) (23/9/2015)

Safe Work Australia to Host Free Online Work Health Safety Seminars

Safe Work Australia (SWA) will host a series of free online seminars throughout October that showcase the latest thinking, innovation, research and developments in work health and safety.

Broadcast daily as part of National Safe Work Month, the Virtual Seminar Series features business leaders, academics and work health and safety experts sharing ideas, experiences, skills and knowledge to improve the lives of Australian workers.

An initiative under the Australian Work Health and Safety Strategy, the seminars are interactive and will involve live broadcasts and online Q&A sessions. Each seminar will be accompanied by a range of work health and safety resources including case studies, research and data.

This year, SWA are focusing on the manufacturing and construction industries, **workers in supply chains**, and discussing how work can be designed so that workers are safe and businesses more productive.

To participate in the Virtual Seminar Series, visit the Safe Work Australia website, www.swa.gov.au throughout October and follow SWA social media pages. Facebook | Twitter | LinkedIn | YouTube #virtualWHS

You can also:

- View the Virtual Seminar Series program.
- Access the Virtual Seminar Series promotion pack.
- Read the Virtual Seminar Series media release
- Watch an introductory video by Ann Sherry AO, Safe Work Australia Chair

Safe Work Australia Issues Diesel Fumes Safety Guide

(Article courtesy of OHS Alert)

Safe Work Australia (SWA) has issued a guide to assist employers in managing risks of exposure to diesel exhaust in the workplace. This guide relates to workers exposed to diesel exhaust in a range of industries and occupations, including truck drivers, fork lift drivers, loading dock workers and vehicle maintenance workers.

SWA says that the World Health organisation declared diesel exhaust as carcinogenic to humans in 2012. It says exposure can be higher for those working near heavy vehicles 'in enclosed, poorly ventilated areas where the concentration of exhaust can build up, like in vehicle repair workshops, tunnels, partially covered roadways and walkways,' SWA Chief Executive Officer, Michelle Baxter said.

'Short term exposure to high levels of diesel exhaust can cause eye, nose, throat and lung infection, or even suffocation. Long term exposure can worsen allergies, increase the risk of heart and lung disease and increase the risk of lung cancer.'

The guide states that duty holders must minimise both workplace and incidental exposure to diesel exhaust.

Incidental exposure refers to emissions that are not under a relevant workplace's control such as roads.

The guide provides advice on how to assess risks of exposure and how to manage risks through a hierarchy of controls.

Further information can be obtained from:
www.swa.gov.au/sites/swa/about/publications/pages/guidance-for-managing-the-risks-of-diesel-exhaust.

National Driver Work Diary Requirements

Recent information published by the National Heavy Vehicle Regulator (NHVR) in relation to fatigue management has created a high level of discussion amongst industry.

Feedback received has highlighted how some changes brought in under the Heavy Vehicle National Law (HVNL) are still not well known or understood by sectors of the industry.

The fatigue management information for farmers was tailored to specific freight tasks with unique challenges, such as working on and around farms, and may not apply to everyone in the industry. Professional operators and drivers have an obligation to know and understand the laws that apply to them and it is important to always check that any information applies to their specific circumstances.

For instance, the recent guidance relating to work diary exemptions has raised a number of questions in regard to the difference between carrying and completing a work diary.

It is a requirement under Basic Fatigue Management and Advanced Fatigue Management for drivers to always carry and complete their work diary to meet the requirements of the HVNL.

A driver operating under standard hours is not required to carry and complete a National Driver Work Diary in the following circumstances:

- working within a 100km radius of their base; or
- working within 160km of their base under the National Primary Production Work Diary Exemption Notice.

It is important to note however that a driver who has worked outside of these circumstances in the previous 28 days is still required to carry their work diary with them.

The NHVR is committed to providing regular updates and guidance to support industry to understand their obligations in carrying out their freight tasks.

Please note: This information is provided as guidance only. Operators and drivers should always refer to the HVNL in relation to their obligations and specific circumstances.

For more information visit: www.nhvr.gov.au.

NHVR Industry Update

The National Heavy Vehicle Regulator issued an "Industry Update" on 9 October 2015 containing the following articles:

- National Heavy Vehicle Inspection Manual update.
- Fatigue management for farmers.
- Safety and compliance alert – WABCO Type 12/16 brake actuators.
- Heavy vehicle registration survey reminder
- Daylight savings.
- New notices.

These articles plus past Industry Updates published by the NHVR can be viewed by visiting the NHVR website, www.nhvr.gov.au and looking under News & Events section and then the Industry Updates sub-section.

Members can also subscribe to receive NHVR News and Industry Updates. **For more information** - visit www.nhvr.gov.au or call 1300 MYNHVR (1300 696 487).

RMS Information Bulletin – Low Loader with Low Loader Dolly Combinations

Roads and Maritime Services has issued an Information Bulletin to remind truck drivers who drive low loaders with low loader dolly combinations require a Multi Combination (MC) class licence.

Drivers who operate a low loader trailer, connected to a low loader dolly attached to a prime mover must ensure they hold the appropriate licence class or risk serious fines if caught.

It is vital that truck drivers hold the correct licence for the vehicle they are operating to ensure they have the right skills to manage the vehicle combination for the safety of all road users. Drivers and operators who are on the road without an appropriate licence may also risk voiding insurance should there be an incident.

This requirement also applies to interstate licenced drivers who drive these multi combinations on NSW roads. Interstate licenced drivers must have an MC class licence to avoid enforcement action.

The link to the attached bulletin is published on the Roads and Maritime website at: <http://www.rms.nsw.gov.au/business-industry/heavy-vehicles/licence/mc-low-loader.html>

TWUSUPER Super News September 2015

Unable to comply with SuperStream by 31 October 2015?

If you have more than 200 employees and are unable to comply with your SuperStream obligations by 31 October 2015, you should advise the ATO via an employer notification. The employer notification template can be requested by sending an email to complyingwithsuperstream@ato.gov.au. You will need to provide information about the steps you have taken to meet your SuperStream obligations.

If you provide sufficient information and your revised start date is accepted by the ATO, the ATO will not undertake any compliance activity before the nominated date.

If you have not provided sufficient information and a revised start date is not accepted by the ATO, you may be contacted by the ATO to discuss implementation.

Super Guarantee payment reminder

By law, employers must pay Super Guarantee payments of at least 9.5% to eligible employees at least four times a year. The ATO can apply the Super Guarantee Charge if payments are not made by the quarterly deadlines.

Quarter	Payment date
1 July to 30 September	28 October
1 October to 31 December	28 January
1 January to 31 March	28 April
1 April to 30 June	28 July

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.

Economic and Industry Indicators

Indicator/Source ¹	As at	Unit of Measure	Quantity	% Variation
GDP latest quarter (ABS)	Jun Qtr 2015	\$m	402,310	2.2
CPI (ABS)	Sep Qtr 2015	Per cent		1.5
Cash rate (RBA)	Current	Per cent	2.00	
Estimated Residential Population (ABS)	Mar Qtr 2015	Number	23,714	1.4
Retail Turnover (ABS)	Aug 2015	\$m	24,389	4.3
Actual New Capital Expenditure (ABS)	Jun Qtr 2015	\$m	34,513	-10.0
Inventories held by private business (ABS)	Jun 2015	\$m	150,853	0.8
Dwelling unit approvals (ABS)	Aug 2015	Number	18,965	13.0
Manufacturers Income (ABS)	Jun 2015	\$m	82,371	-6.4
Employed persons (ABS)	Sept 2015	Number	11,776	2.0
Unemployed persons (ABS)	Aug 2015	Percentage	6.2	0.0
Wage Price Index (ABS)	Jun Qtr 2015	Per cent		
All employees				2.3
Transport, postal and warehousing				2.2
New motor vehicle sales (ABS)	Sept 2015	Number	98,003	5.7
Cab Chassis/Prime Mover Sales (TIC)	7 months ending July 2015	Number	14525	0.3
Vans (TIC)	7 months ending July 2015	Number	3269	29.1
AIP Terminal Gate Price-Diesel-Sydney	As at 30 Oct	Cents per litre	112.9	

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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.