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Industrial Organisation

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The Courier

Information and Advice for NSW Transport Operators

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Victorious Premier, Deputy Premier, Announce Revamped Ministry

Adapted from joint media release, Hon Gladys Berejyklian MP, Premier and Hon John Barilaro MP, Deputy Premier, 31 March, 2019

The Premier, Gladys Berejyklian and Deputy Premier, John Barilaro have announced a new look Cabinet following their re-election at the NSW election on 23 March.

Key Ministers and their portfolios are:

- Don Harwin, (Member, Legislative Council) Minister for State, Minister for the Public Service and Employee Relations, Minister for Aboriginal Affairs and Minister for the Arts, Vice-President of the Executive Council and of Government Business in the Legislative Council.
- Andrew Constance, (Member for Bega), Minister for Transport and Roads, Leader of the House.
- Paul Toole, (Deputy Leader of the National Party and Member for Bathurst), Minister for Regional Transport and Roads.
- Kevin Anderson (Member for Tamworth), Minister for Better Regulation and Innovation.

Minister Harwin's role as Minister for the Public Service and Employee Relations gives him the same legislative and regulatory responsibilities held by previous ministers for Industrial Relations in Coalition governments since 2011.

It is not clear how the transport and roads portfolio responsibilities will be divided between Ministers Constance and Toole, however, it appears that Minister Constance will have overall responsibility on a statewide basis.

The Premier and Deputy Premier have, together, also put greater emphasis on regional NSW, no doubt in response to the loss of traditionally Nationals seats in western NSW. The two party leaders have also agreed to dispense with convention and ensure the balance of ministerial appointments between the two Coalition parties remains unchanged. Normally, this balance is altered to favour or punish the Coalition party with a performance in terms of seats won or lost.

It is also noteworthy and the Premier and Deputy Premier have, together, decided to drop "Freight" and "Ports" from transport and roads related portfolios.

The Coalition won 48 of the 93 seats at the election and has a majority of two on the floor of the house, excluding the Speaker. The Coalition lost four seats, one Liberal and three National. The ALP has 36 seats, two more than in the previous Coalition government. The Shooters, Fishers and Farmers Party has three seats, also a net gain of two, the Greens, three seats (unchanged), while there are three Independents (also unchanged).

This result gives the Coalition a comfortable working majority in State Parliament.

NTC Releases Heavy Vehicle National Law Issues Paper

The National Transport Commission has released an issues paper seeking feedback on the regulatory style and structure of the Heavy Vehicle National Law.

According to the NTC, the issues paper seeks views on ways to make the HVNL more outcome focused and less prescriptive.

NTC Acting CEO, Dr Geoff Allen, said the NTC's aim is to deliver an entirely new law.

He said this is the first of eight issues papers to be issued by the NTC on the HVNL review.

The issues paper is available at [www.ntc.gov.au/Media/Reports/\(36FCC036-E3B4-F885-CBE5-CB9DF08E308D\).pdf](http://www.ntc.gov.au/Media/Reports/(36FCC036-E3B4-F885-CBE5-CB9DF08E308D).pdf).

Information on stakeholder consultation is available at www.hvnreview.ntc.gov.au/.

Federal Parliament Passes Laws Aimed at Protecting Workers Entitlements

Adapted from joint media release, Hon Kelly O'Dwyer, Minister for Jobs and Industrial Relations and Hon Stuart Robert, Assistant Treasurer, 4 April, 2019

Federal Parliament has passed new laws introduced by the Coalition Government aimed at ensuring employers don't avoid their workers' entitlements.

Minister for Jobs and Industrial Relations, Kelly O'Dwyer, said the new laws will address corporate misuse of the taxpayer-funded Fair Entitlements Guarantee (FEG) scheme.

Ms O'Dwyer said employers must pay the entitlements their workers are due or they will face the full force of the law.

] "These vital new laws crack down on companies which try to evade their obligations to their workers, including through illegal phoenix activities, and shift the burden to the taxpayer," Ms O'Dwyer said."

"Misuse of the Fair Entitlements Guarantee scheme by employers places an unfair burden on Australian taxpayers."

"It also creates an unfair commercial advantage over honest competitor businesses who do the right thing by their employees."

The FEG is an important safety net for Australian workers which protects employment entitlements when workers lose their job due to their employer's insolvency.

Assistant Treasurer, Hon Stuart Robert, said the new laws are tightly targeted to deter and punish only those who seek to avoid their employee entitlement obligations and exploit the FEG scheme.

"The new laws mean we have stronger levers to ensure employers are held accountable for their obligations.

Stronger penalties, better options to recover entitlements and greater powers to deal with directors and companies deliberately evading their obligations," the Assistant Treasurer said.

The Ministers said the new laws amend the Corporations Act 2001 to:

- Deter and penalise directors and others who engage in, or facilitate, transactions directed at preventing, avoiding or reducing employer liability for employee entitlements in insolvency.
- Recover employee entitlements from related entities if that entity benefitted from work performed, even if it did not employ the employees directly.
- Strengthen sanctions for directors and company officers with a track record of corporate contraventions and insolvencies where FEG is repeatedly and inappropriately relied on.

Stevedores to Remove Likely Unfair Contract Terms

Adapted from media release, Australian Competition and Consumer Commission, 2 April, 2019

Three stevedores have amended their contracts with land transport businesses after the ACCC raised concerns that certain terms in each of these agreements may be unfair contract terms.

According to the Australian Competition and Consumer Commission, DP World Australia, Hutchison Ports Australia and Victoria International Container Terminal (VICT) agreed, after the ACCC's intervention, to remove or amend terms in their standard form contracts that the ACCC considered were likely to be considered "unfair" within the meaning of the Australian Consumer Law.

The ACCC said DP World and Hutchison had contract terms that allowed a stevedore to unilaterally vary terms in the agreements without notice, including fees paid by the land transport operators.

It said that DP World and Hutchison also had terms that limited their liability for loss or damage suffered by the transport businesses, while not offering the transport businesses the same protections while VICT's contract had a term requiring transport businesses to indemnify VICT for loss or damage, with no reciprocal obligation on VICT.

It said that DP World's standard agreement also required the transport businesses to pay the stevedore's legal costs and expenses, in circumstances where such payments would normally be determined by court order.

According to the ACCC, the three stevedores cooperated with the its investigation and agreed to remove or amend the terms. It said Hutchison has made its commitments in a court enforceable undertaking and will also place a corrective notice on its website and put in place a compliance program.

It said those contract terms which previously allowed the stevedore to amend the contract without notice have either been removed, or now require the stevedore to give 30 days' notice of any changes, including for any price rises.

"Thousands of transport businesses, which have standard form agreements with DP World, Hutchison and VICT, stand to benefit from these changes," ACCC Commissioner Sarah Court said.

The ACCC said it has concluded its assessment of unfair contract terms within the industry.

NHVR Issues Warning on the Responsibility of Parties under CoR Laws

The NHVR has warned heavy vehicle operators to be aware of their responsibilities under the changed Chain of Responsibility laws after reports of pressure to disclose additional information from larger customers.

NHVR Safety Standards and Assurance Executive Director Geoff Casey said the NHVR was aware that some customers were requiring operators to provide unnecessary information beyond what is required under the current CoR provisions.

He said the NHVR has been contacted by a number of transport operators after they were asked to provide details of their drivers, safety systems and work diaries by a customer claiming they were required under CoR laws.

“This level of information is not required by a customer or primary contractor under the law” Mr Casey said.

“The law makes it clear that it’s the transport operator’s responsibility to manage their own operations and activities so as to ensure safety under the primary and safety duty provisions.”

Mr Casey said each party in the heavy vehicle supply chain was liable and responsible to the extent of their level of influence and control over the particular transport task.

He said a customer or primary contractor may request additional information under a commercial arrangement that is subject to agreement but it is not a requirement under the Heavy Vehicle National Law.

NHVR Announces Expansion of the PBS Preadvised Design Approvals

The NHVR has advised that it has expanded the PBS preadvised design approvals to include B-double combinations up to 30 metres.

NHVR Chief Engineer Les Bruzsa said the preadvised process was improving processing times.

“Since the commencement of the preadvised design approval trial in March 2017, application processing times for applicable vehicle types have reduced on average from four weeks to three business days,” Mr Bruzsa said.

“To date, most major combination designs have been pre-advised and it is estimated that 90 per cent of all PBS design applications will qualify for approval under the simplified pre-advised design approval process.”

A full list of the PBS combinations that are currently eligible to access the pre-advised approval process can be found at www.nhvr.gov.au/pbs.

EPA Fines Operator for Failing to Meet Dangerous Goods Safety Requirements

Adapted from media release, NSW Environmental Protection Authority, 28 March, 2019

The NSW Environment Protection Authority (EPA) has fined a transport operator after one of its contracted trucks allegedly failed to comply with the safety requirements for its load of flammable liquids in Newcastle.

This followed an inspection conducted last December by EPA officers of a vehicle-contracted to the company at Kooragang which found the truck had not properly secured its load of 72 drums containing flammable liquids.

The EPA statement said it alleges that inspection revealed that the vehicle failed to meet several safety requirements including:

- The drums were not stowed behind rigid sides as required by the Australian Dangerous Goods Code.
- Not carrying compliant transport documentation or emergency information.
- Not equipped with the required Emergency Information Holders, fire extinguisher, eye wash kit or intrinsically safe torch.

The EPA said it issued three penalty notices totalling \$8000 for the alleged offences.

It said the truck driver was also issued with an Official Caution.

The EPA also said it has previously issued to the same company in 2017 for similar failures.

"The dangerous goods safety requirements are non-negotiable," EPA Director Hunter Region Karen Marler said.

She said that the EPA and NSW Police continue to undertake dangerous goods inspections to ensure the safety of those in the transport chain and to minimise the risks to first responders, the community and the environment."

The EPA said the transport company has committed to implement revised procedures and systems to ensure compliance in transporting dangerous goods.

It also said penalty notices are one of several tools it can use to achieve environmental compliance including formal warnings, official cautions, licence conditions, notices and directions and prosecutions.

For more information about the EPA's regulatory tools, see the EPA Compliance Policy at www.epa.nsw.gov.au/legislation/prosguid.htm.

WorkSafe ACT Clarifies Training Obligations for Health and Safety Representatives

WorkSafe ACT has warned of a common misconception that health and safety representatives must re-complete their initial training course if they're re-elected after three years in the role.

"This is not the case. If an HSR completes the initial five-day training course and completes the annual refresher training they would be determined to have met the training requirements and would not be required to repeat the initial five-day course," WorkSafe said.

The same rule applies to HSRs who aren't re-elected at the end of their three-year tenure, but are subsequently re-elected within five years, providing they complete a one-day refresher course, it said.

AustRoads Releases WHS Guide for Transport Sector

AustRoads, which represents road transport and traffic agencies in Australia and New Zealand, has issued a Guide to assist businesses, other organisations and individuals who use vehicles for work purposes on the road networks of Australia or New Zealand.

The *Vehicles as a Workplace Work Health & Safety Guide*, describes a process for dealing with road traffic hazards in line with WHS legislation and road traffic safety principles. It covers all vehicle use in road traffic and complements other legislative requirements that apply to businesses whose primary purpose is transport, including road freight transport.

The Guide has been endorsed by the Heads of Workplace Safety Authorities comprising the WHS regulators from Queensland, NSW, Tasmania, SA, NT, ACT and the Commonwealth.

According to Austroads, the Guide provides practical risk management for individuals and organisations who use vehicles on public roads for work.

A copy of the Guide is available at www.worksafe.qld.gov.au/data/assets/pdf_file/0020/173072/vehicles-as-a-workplace-national-guide.pdf.

Easter Travel Restrictions

RMS advises that travel restrictions apply for oversize load carrying vehicles, such as low loaders transporting oversize equipment, during the Easter long weekend.

These requirements are outlined in the New South Wales Class 1 Load Carrying Vehicle Operator's Guide, the NSW Schedule of the MultiState Class 1 Dimension Exemption Notice 2016 and additional requirements

for vehicles operating under an access permit in the Additional Access Conditions for oversize and overmass heavy vehicles and loads.

Further information is available from www.rms.nsw.gov.au/documents/business-industry/heavy-vehicles/easter-long-weekend-holiday-travel-requirements-load-carrying-2019.pdf

New Truck Stopping Bay Open at Beresfield

RMS has advised that a new truck stopping bay on John Renshaw Dr at Beresfield between the New England Hwy turnoff onto John Renshaw Dr westbound and the M1 Pacific Motorway /Weakleys Dr intersection is open.

It also advises that speed limits in this section remain at 80km/h and encourages heavy vehicle drivers to exercise caution when entering or exiting the truck stopping bay.

RMS says that heavy vehicle drivers who wish to access the service centre should proceed to the traffic lights at the M1 Motorway /Weakleys Dr intersection to turn right and then right again at the roundabout onto Enterprise Dr.

It stresses that stopping on the shoulder of John Renshaw Dr is not permitted.

More information about the M1 Upgrades can be found a www.rms.work/M1Upgrades.

Reminder: Changed Traffic Conditions, Sparks Rd, Warnervale

A reminder that RMS has advised that changed traffic conditions will be in place on Sparks Road at the Warnervale interchange from Saturday 6 April until Monday 8 April, weather permitting.

A single lane closure of Sparks Road will be required for this work and motorists may be stopped for up to five minutes.

A 40km/h speed limit will be in place on Sparks Road near the bridge. The existing 80km/h speed limit for the M1 Tuggerah to Doyalson upgrade will remain in place on the M1 Motorway.

A further reminder that OSOM vehicles may not be physically able to travel through sections of the M1 being upgraded without prior arranged assistance from the project team and must contact 1800 841 778, at least five days before any proposed travel. This requirement is in addition to the conditions imposed on your approved permit and is for the safety of our road crews.

Please follow the prompts to the Tuggerah to Doyalson project to speak directly to the project team who will arrange provisional travel as required. If travelling through all three M1 upgrades you must ring all three projects individually. Failure to notify may result in delays to your journey and non-compliance can result in prosecution.

If you have any questions, please contact the construction partner, CPB Contractors, on 1800 841 778 (24 hours) or M1T2Dinfo@cpbcon.com.au.

More information about the M1 Upgrades can be found at rms.work/M1Upgrades.

Road Works Update

The following new road work alerts may impact your operations. Please refer to earlier editions of *The Courier* for other current road works.

Suburb/Town	Road	Date/s	Work Times
Canterbury	Cooks R bridge, Canterbury Rd	1/4-31/5/19	8pm-5am Sun-Fri
Colyton	Carlisle Ave from Eddie Rd to Roper Rd	1/4-31/5/19	7pm-5am Sun-Fri
Croydon Park	Cnr Georges River Dr, Portland St and Lees Ave	1/4-late June 19	9pm-5am Sun-Thu

Edgecliff	Cnr New South Head Rd and Ocean St	8/4-19/4/19	9pm-5am Sun-Fri
Erskine Park	Rpoer Rd bridge over M\$ Motorway	4/4-21/6/19	10pm-5am Sun-Fri
Maroubra	Anzac Pde northbound from Storey St to Moverly Rd	1/4-12/4/19	7am-5pm Mon-Fri 9pm-5am Sun-Fri
Mt Druitt	Cnr Luxford Rd and Carlisle Ave	8/4-3/6/2019	8pm-5am Sun-Fri. 7am-6pm Mon-Fri 8am-1pm Sa
North Richmond	Bells Line of Road from Pitt Lane to Grose Vale Rd Cnr, Terrace Rd/Beaumont Ave Grose Vale Rd	1/4-31/5/19	7pm-7am Sun-Fri. 7am-7pm Mon-Fri 8am-1pm Sat
Orchard Hills	Kingswood Rd bridge over M\$ Motorway	7/4-14/6/19	9pm-5am Sun-Fri
Rooty Hill	Rooty Hill Rd North from Luxford Rd to Richmond Rd	3/4-10/5/19	8pm-5am Sun-Fri
Wentworth Falls	Cnr Great Western Hwy and Sinclair Ave	8/4-3/6/2019	8pm-5am Sun-Fri.
Wentworthville	Hart Dr/Cumberland Hwy southbound from Darcy Rd to Wentworth Ave	31/3-Sept 2019	8pm-5am Sun-Fri. 7am-6pm Mon-Fri 8am-1pm Sat
Woolooware	Captain Cook Dr and Foreshore Blvd	31/3-15/5/19	8pm-5am Sun-Fri

ARTIO NSW Events

Please pencil in the following:

- 11 April, TWUSUPER Chair, David Galbally AM QC, Sir Stamford at Circular Quay Hotel, midday for 12.30pm to 2.30pm. David will discuss insights into corporate governance having regard to recent amendments to superannuation legislation and the findings of the Hayne Royal Commission.

Economic and Industry Indicators

Indicator/Source ¹	As at	Unit of Measure	Quantity	Annual % Variation
GDP latest quarter (ABS)	Dec Qtr 2018	\$m	462,031	2.3
CPI (ABS)	Dec Qtr 2018	Per cent		1.8
Cash rate (RBA)	Current	Per cent	1.5	
Estimated residential population (ABS)	5 Apr 2019	Million	25,324	1.9
Retail turnover (ABS)	Feb 2019	\$m	27,176	2.9
Actual new capital expenditure (ABS)	Dec Qtr 2018	\$m	29,965	1.2
Inventories held by private business (ABS)	Dec 2018	\$m	161,513	1.2
Dwelling unit approvals (ABS)	Feb 2019	Number	15,203	-21.7
Manufacturers Income (ABS)	Dec 2018	\$m	82,925	-1.7
TEUs Port Botany (NSW Ports)	8 months to Feb 2019	Number	1,813,186	2.1
Employed persons (ABS)	Feb 2019	Million	12.763	2.3
Unemployment rate (ABS)	Feb 2019	Per cent	5.0	-0.5
Wage price Index (ABS)	Dec Qtr 2018	Per cent		
All employees				2.3
Transport, postal and warehousing				2.4
New motor vehicle sales (FCAI)	Feb 2019	Number	87,102	-9.3
Cab Chassis/Prime Mover Sales (TIC)	1 month ending Jan 2019	Number	1,800	-2.0

¹ ABS – Australian Bureau of Statistics; RBA – Reserve Bank of Australia; AIP – Australian Institute of Petroleum; FCAI – Federated Chamber of Automotive Industries; TIC – Truck Industry Council/'Prime Mover' latest issue.

Vans (TIC)	1 month ending Jan 2019	Number	398	1.8
AIP Terminal Gate Price-Diesel-Sydney	5 Apr 2019	Cents/litre incl. GST	135.9	9.1

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