

The first Road Safety Remuneration Order

The first Road Safety Remuneration Order has been handed down on 17 December 2013. The Order was made under the Road Safety and Remuneration Act 2012 which commenced on 1 July 2012 with the stated objective of promoting safety and fairness in the Road Transport Industry. Senior Associate, Maria Capati and Lawyer, Ryan Ainscough, discuss the Order.

The *Road Safety Remuneration Act 2012 (Cth)* (the Act) establishes the Road Safety Remuneration Tribunal (the Tribunal) which has certain functions, including making Road Safety Remuneration Orders, approving road transport collective agreements and dealing with certain disputes relating to road transport drivers, their employers or hirers and participants in the supply chain.

The first Road Safety Remuneration Order (the Order) is stated to apply to a road transport driver employed or engaged in:

- 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.
- Any interstate operation, or any return journey where the distance travelled exceeds 500 kilometres and the operation involves a vehicle moving livestock or materials whether in a raw or manufactured state from a principal point of commencement to a principal point of destination.

This Order commences on 1 May 2014 and expires on 30 April 2018 and imposes the following requirements:

- **Contracts:** an employer or hirer must provide a driver with a written employment contract or written road transport contract prior to the driver commencing their employment or engagement with the employer or hirer.

The contract must include things such as the nature of the road transport service to be provided by the driver, the nature of the legal relationship between the parties to the contract, identify any modern award, enterprise agreement and/or other industrial instrument that covers or applies to the road transport driver; and set out the remuneration, including any wage rate or kilometre rate or other piece rate, to be paid to the road transport driver for the road transport service.

- **Payment time:** A hirer must pay to a contractor driver any undisputed amount set out in a valid taxation invoice provided within 30 days of the date of receipt by the hirer of the invoice.

The hirer must not require a contractor driver to pay any amount, or make any deductions from an amount payable to a contractor driver unless:

- » The particular services or equipment are set out in the contract.
- » The amounts are a direct and proper reflection of the actual cost.
- » If practicable, the hirer has given the contractor driver an opportunity to obtain the services or equipment from another supplier.
- **Safe driving plans:** an employer or hirer must prepare, in consultation with the driver, a written safe driving plan for a driver employed or engaged by them who is to undertake a long distance operation using a motor vehicle with a gross vehicle mass of more than 4.5 tonnes. The safe driving plan must be reviewed regularly and updated by the employer or hirer when circumstances require.

- Training: an employer or hirer must take all reasonable measures to ensure their drivers are trained in relevant work health and safety systems and procedures. The employer or hirer must reimburse the driver for any expenses reasonably incurred by the road transport driver in undertaking the training.
- Drug and alcohol policy: an employer or hirer must prepare and implement, in consultation with their drivers, a written drug and alcohol policy. The drug and alcohol policy must, amongst other things:
 - » Prohibit the use, consumption, possession, manufacture, sale, purchase or transfer of illegal drugs.
 - » Include a fair and reasonable process for the driver to notify the employer or hirer of drug and alcohol dependency.
 - » Specify the procedure for the mandatory drug and blood alcohol content testing of drivers.
 - » Set out the repercussions for the road transport driver's breach of the policy.

If your business will be or might be affected by the Order or you wish to know more generally about the application of the Act, please do not hesitate to contact our transport team.



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