

WORKPLACE RELATIONS CIRCULAR

For the information of members of Australian Business Industrial



CIRCULAR No.	CASE FILE No.	CIRCULAR DATE	IMPORTANT INFORMATION
2016/007	ALL MEMBER	01/04/2016	

URGENT: ROAD SAFETY ORDER TO COMMENCE ON 4 APRIL

WHO MUST READ THIS?

1. Businesses that directly engage owner-drivers for long distance operations
2. Businesses that directly engage owner-drivers for deliveries to supermarket chains
3. Participants in the supply chain, including:
 - a. consignors of goods (e.g. manufacturers who transport goods);
 - b. intermediaries in the supply chain (e.g. storage warehouses);
 - c. operators of truck loading/unloading premises (e.g. a distribution centre)
 - d. consignees of goods (e.g. retail stores who receive deliveries)

IF ANY OF THE ABOVE APPLY TO YOU THEN YOU MUST READ THIS CIRCULAR!

In a decision released this afternoon, the Road Safety Remuneration Tribunal has refused to delay the commencement of the *Contractor Driver Minimum Payments Road Safety Remuneration Order 2016 (2016 Order)*.

This means the 2016 Order will commence as scheduled **this coming Monday, 4 April 2016**. Those to whom the 2016 Order applies must be in a position to comply with the terms of the 2016 Order by Monday.

Despite many in the industry having difficulties in understanding the 2016 Order and how it applies to their business, and the Fair Work Ombudsman giving incorrect advice, the Tribunal has refused to entertain any delay to its commencement.

What is the 2016 Order?

The 2016 Order is the Tribunal's second order and it follows the *Road Transport and Distribution and Long-Distance Operations Road Safety Remuneration Order 2014 (2014 Order)* that came into effect on 4 April 2014.

The 2016 Order regulates conditions for contractor drivers and provides a minimum remuneration schedule. New conditions include an entitlement to 4 weeks' unpaid leave following each 12 months' service.

The 2016 Order has similar coverage to the 2014 order; it applies to participants in:

- (a) parts of the road transport and distribution industry falling within the *Road Transport and Distribution Award 2010* in respect of the provision of a road transport service wholly or substantially in relation to goods or things that are destined for sale or hire by a supermarket chain; and
- (b) long distance operations within the coverage of the *Road Transport (Long Distance Operations) Award 2010*.

Key aspects of the Order

The Order also imposes a variety of other obligations on participants in the supply chain, in particular hirers of contractor drivers. They include:

- Requiring hirers to display and advise drivers of the 2014 and 2016 Orders;
- Requiring supply chain participants to take all reasonable steps to ensure their contracts with other participants do not contain provisions which circumvent the 2016 Order;
- In certain circumstances, mandating participants in the supply chain to audit hirer records and recommend actions to rectify any non-compliance found within 28 days;
- Imposing minimum pay rates, both hourly and per km based on a mix of standing, operational and labour supply costs, for the distribution and long distance operations which are covered by the order;
- Setting methods of dispute resolution in accordance with the *Road Safety Remuneration Tribunal Act 2012*; and
- Giving drivers engaged by a hirer on a regular basis access to 4 weeks of unpaid leave per year unpaid leave.

Further information

You can access the 2016 Order, including the minimum rates for drivers at this link:
<http://www.rsrt.gov.au/default/assets/File/decisions-files/PR350441.pdf>

You can access the Decision from the Tribunal, in refusing to provide more time, here:

<http://www.rsrt.gov.au/default/assets/File/decisions-files/2016RSRTFB6.pdf>

If you require further assistance you can call Australian Business Lawyers & Advisors for more detailed information on how the Order applies to your business and what you do to prepare for the 4 April commencement date. **Call 1300 565 846.**

You can also call the Workplace Advice Unit on 13 29 59 or email advice@nswbc.com.au if you wish to discuss this circular or require further information.

NSW BUSINESS CHAMBER