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Practice Group(s):

*Labour, Employment
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Road Safety Remuneration Tribunal to Order Minimum Conditions for Drivers

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On 1 July 2012, the *Road Safety Remuneration Act 2012 (Cth)* (Act) came in to force imposing requirements on employers across the road transport industry to meet new remuneration and employment standards for their drivers. Importantly, one of the main functions of the Act was the establishment of the Road Safety Remuneration Tribunal (the Tribunal) which, due to a late amendment to the Act, only recently came into operation on 1 January 2013.

The Road Safety Remuneration Tribunal

The Tribunal is comprised of both industry members and members of the Fair Work Commission and has been granted a very broad range of powers to make orders relating to the remuneration and employment conditions of both employee and independent road transport drivers. These powers grant the Tribunal the ability to solve disputes, approve collective agreements and make orders relating to minimum pay, entitlements, working hours, payment methods, load limits and waiting times.

After a process involving submissions from various stakeholders in December last year, the Tribunal has identified five sectors in which it plans to limit its first annual work program in 2013. These include the retail, livestock, bulk grain, interstate long distance and intrastate long distance sectors.

A significant function of the Tribunal is its ability to make Road Safety Remuneration Orders in circumstances where it determines that employment conditions in certain road transport sectors encourage unsafe driving practices. Before issuing an order, the Tribunal is required to prepare a draft which will be published on its website, with those affected having the ability to make written submissions in reply.

Importantly for employers concerned about the impact of these Road Safety Remuneration Orders, the Tribunal is accepting submissions in the form of potential draft orders until 4 March 2013, as well as suggestions for potential worksites that may require inspection.

Context of the Tribunal

The Tribunal is the culmination of an extended period of lobbying following a report commissioned by the National Transport Commission in July 2008 that suggested a link between driver remuneration and safety outcomes in the transport industry. The report issued various recommendations which have influenced the Government to institute this enforceable statutory framework regulating driver remuneration. In support of this, the Transport Workers Union (TWU) has insisted that a statutory framework is necessary while claiming that major retailers are currently in a position of "unprecedented economic power".

Objective of the Tribunal

The Australian trucking industry has the highest fatality rate of any industry. The TWU reported that 250 people were killed and more than 1,000 suffered serious injuries in accidents involving trucks in the 2008-09 financial year. The Minister for Workplace Relations, Bill Shorten, has previously stated

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that road accidents involving heavy vehicles cost the Australian economy an estimated AUD2.7 billion a year. The Tribunal is therefore aimed at reducing such fatalities, injuries and the associated costs prevalent in the industry.

Implications for Employers

Employers should be mindful of the Act's obligations and its concurrent operation with pre-existing legislation including work health and safety laws and the Heavy Vehicle National Law. Employers of both employee and independent transport drivers will be affected by the decisions of the Tribunal and should assess their current driver remuneration arrangements to identify any areas which could attract the Tribunal's attention.

The Tribunal's broad powers may be of concern to many road transport employers due to the potential for increased staffing and transport costs as a result of future Road Safety Remuneration Orders. In consideration of this, employers in the five identified priority sectors should take the opportunity to contribute to the development of the Tribunal's orders by submitting potential draft orders to the Tribunal prior to the 4 March 2013 deadline.

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