Discussion Paper
The Road Safety Remuneration System

The Road Safety Remuneration System commenced on 1 July 2012. Under the System the Road Safety Remuneration Tribunal has powers to make orders covering the road transport industry. The Fair Work Ombudsman has responsibility for ensuring compliance with the Tribunal’s orders.

The Australian Government has released two independent reviews of the System which are available at https://www.employment.gov.au/review-road-safety-remuneration-system.

Together the reviews provide comprehensive evidence on whether the System provides an effective and appropriate means of addressing safety concerns in the road transport industry.

The Government is seeking the views of stakeholders on reforming the Road Safety Remuneration System. Options for reform include:

- Option 1: No change to the current road safety remuneration system
- Option 2: Ensuring the Tribunal considers safety evidence and evidence of economic impacts
- Option 3: Narrow the scope of the Tribunal
- Option 4: Repeal (abolish) the Road Safety Remuneration System

The Department of Employment will be undertaking consultations during April 2016 on these options with industry stakeholders in locations around Australia, including regional centres. If you would like to be part of the consultation process, or wish to provide written comments and feedback on the options, please email rsrreview@employment.gov.au.

The Road Safety Remuneration System
The Road Safety Remuneration System is made up of:

- the Road Safety Remuneration Tribunal, and
- a separate education and compliance framework administered by the Fair Work Ombudsman.

The System covers employee drivers, contractor drivers, hirers and other supply chain participants in the distribution, long distance operations, cash in transit, and waste management sectors.
The Tribunal has a number of powers and functions, including making road safety remuneration orders (orders), approving collective agreements covering contractor drivers, and resolving disputes between participants in the road transport industry.

To date, the Tribunal has issued two orders:

- The first order has been in operation since 1 May 2014 and applies to road transport drivers either in supermarket distribution or long distance operations. The order imposes a number of obligations on the road transport industry with respect to safe driving plans, contracts, drug and alcohol policies, and training in work, health and safety (WHS).
- The second order, issued on 18 December 2015 to commence on 4 April 2016, sets mandatory minimum pay rates on a per-kilometre and hourly basis for contractor drivers working either in supermarket distribution or long distance operations. The Tribunal is currently considering 30 applications to delay commencement of the order to 1 January 2016. At the time of publication, the Tribunal had yet to make a decision on the matter.

Reviews of the Road Safety Remuneration System

A review of the System was completed by PricewaterhouseCoopers in January 2016 (the 2016 Review). It was required by legislation. It included an examination of the economic impact of the System over 15 years, including the Road Safety Remuneration Tribunal’s recent order setting minimum rates of pay for contractor drivers.

A previous review of the System (the 2014 Review) was completed by Mr Rex-Deighton Smith of Jaguar Consulting in April 2014. It examined the System based on the available academic literature, safety data and existing regulatory and policy settings. Both reviews were also informed by consultations across the industry.

The 2016 Review found that the two orders made by the Tribunal to date will have a net cost to the economy in excess of $2 billion in net present value terms over fifteen years from 2012, even with safety gains factored in. Both reviews found there is substantial regulatory overlap with work health and safety laws and other road safety regulation, and that the level of regulation is not justified based on the limited evidence. Both reviews also acknowledged there was some evidence of a link between remuneration issues and road safety in the road transport industry but considered further evidence clarifying the nature and extent of any link is necessary.
Options for discussion with stakeholders

In considering the two reviews and feedback from stakeholders, the Government is seeking stakeholder consideration of four policy options. Any laws and policies need to be targeted and effective in achieving their intended objective of addressing the incentive for heavy vehicle drivers to speed or drive while fatigued.

**Option 1: No change to the current road safety remuneration system**

This option proposes no change to the Road Safety Remuneration System.

This option would assume there is sufficient evidence of a link between safety and remuneration to justify the Tribunal’s powers to set remuneration levels and deal with ‘remuneration and related matters.’ This option does not address concerns about the overlap of the Road Safety Remuneration System, particularly the Tribunal’s first order, with other safety laws and initiatives nor does it address the cost impact of the Road Safety Remuneration System on the economy in excess of any road safety improvements.

**Option 2: Ensuring the Tribunal considers safety evidence and evidence of economic impacts**

This option proposes strengthening the Tribunal’s consideration of the:
- evidence linking safety to remuneration; and
- the regulatory and economic impacts of any proposed orders.

There are two ways Option 2 could be implemented to ensure greater consideration of safety evidence and economic impacts by the Tribunal:
- **Option 2(a)** – Imposing obligations on the Tribunal to undertake a regulation impact analysis before issuing an order; and/or
- **Option 2(b)** – Requiring greater economic expertise in the Tribunal’s membership.

**Option 3: Narrow the scope of the Tribunal**

This option proposes narrowing the scope of the Tribunal in order to reduce regulatory burden and duplication with other Commonwealth and state and territory regulations governing road transport, safety and industrial relations.

Option 3 could be implemented using one or both of the following:
- **Option 3(a)** – Limiting the powers of the Tribunal so it can only make orders on remuneration related matters for contractor drivers. The Tribunal would keep the power to resolve disputes, but only in relation to the remuneration of contractor drivers; and/or
- **Option 3(b)** – Limiting the coverage of the Road Safety Remuneration Act 2012 to contractor drivers in the distribution and long distance road transport industries. This would involve removing coverage of the Road Safety Remuneration Act 2012 from the cash in transit and waste management industries.
Option 4: Repeal (abolish) the Road Safety Remuneration System

This option proposes abolishing the Road Safety Remuneration System, including the Tribunal.

This option could be implemented in two ways:

- **Option 4(a)** – Amending the *Road Safety Remuneration Act 2012* preventing the Tribunal from making any new orders and from extending current orders beyond their expiry dates;  
  and/or
- **Option 4(b)** – Repealing the *Road Safety Remuneration Act 2012* in its entirety, which would bring about the immediate expiry of current orders.

This option would remove overlap and duplication with existing state and territory road safety initiatives and other Commonwealth laws, remove any unwanted intervention in contractual arrangements and remove significant costs to the economy and community.

Conclusion

The Government is seeking the views of stakeholders on each of these options. However, it is open to considering other changes or amendments to help achieve the objective of ensuring any laws and policies are targeted and effective in addressing any incentives that exist for heavy vehicle drivers to speed or drive while fatigued.