

Allow the Fair Work Commission to Set Minimum Standards to Ensure the Road Transport Industry is Safe, Sustainable and Viable

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| These proposed amendments implement a Jobs and Skills Summit commitment to allow the Fair Work Commission to set fair minimum standards to ensure the Road Transport Industry is safe, sustainable and viable. |

# What is proposed?

This proposal would amend the *Fair Work Act 2009* (the Act) to give the Fair Work Commission (the Commission) the power to set minimum standards for the road transport industry. The amendments would also introduce a consent-based collective agreements framework and access to dispute resolution for road transport contractors that have had a services contract unfairly terminated.

# What will it mean?

The changes would mean the Commission will be able to set fair and enforceable minimum standards in the road transport industry, where the Commission is satisfied it is appropriate to do so.

Applications for minimum standards can be made by a road transport business, a registered organisation representing road transport workers or businesses, or the Minister for Employment and Workplace Relations. The Commission may also set minimum standards on its own motion. Minimum standards can be in the form of a mandatory Minimum Standards Order or non-binding Minimum Standards Guidelines.

The Commission has broad discretion to decide what terms and conditions will be set as minimum standards. For example, standards could include terms about payment terms, deductions, working time and insurance. The Commission cannot include certain terms, such as overtime rates, rostering arrangements or terms that would change the form of engagement of road transport contractors covered by the order. The Commission also cannot include terms on matters that are primarily of a commercial nature that do not affect the terms and conditions of engagement of workers, and matters relating to work health and safety and national heavy vehicle safety that are otherwise comprehensively dealt with by other laws.

Minimum standards would be made by a Fair Work Commission Expert Panel for the Road Transport Industry, informed by advice from a Road Transport Advisory Group, and its sub-committees when established. The Commission would be required to genuinely engage with the parties to be covered by a minimum standards order, including through a new notice of intent to make an order process, where draft orders must be published 24 months before they can come into effect to give parties time to understand them and respond appropriately.

Registered organisations representing road transport contractors would also have a new ability to make collective agreements with road transport businesses. Negotiating entities have obligations to consult and explain the terms of the proposed agreements to the workers covered by the agreement, and a finalised agreement must be registered with the Fair Work Commission and published on their website.

Road transport contractors would have a new ability to apply to the Commission for assistance if their services contract has been unfairly terminated. The new ‘unfair termination’ dispute resolution process would be available to road transport contractors who have performed work under a services contract for a road transport business for at least 12 months.

# When will it come into effect?

The proposal is subject to the passage of legislation.

For more information on the Closing Loopholes legislation, visit: <https://www.dewr.gov.au/workplace-relations>