



Analysis and Comment on the
Fair Work Legislation Amendment (Closing Loopholes) Bill 2023 (The Bill)

Owner drivers – Part 16

28 September 2023

Paper Number Four (4)

**On the reintroduction of RSRT-like provisions under
Part 16 Divisions 1,2,3,4**

Summary

This part of the Bill reintroduces a form of the 2012 Road Safety Remuneration Tribunal (RSRT) that when implemented in 2016 directly threatened the livelihoods of independent, self-employed truck drivers across Australia. It resulted in the bankruptcy and/or near bankruptcy of many and triggered several suicides.

The Loophole Bill in this respect is effectively the reintroduction of the RSRT in all but name.

Recommendation and Request

**SEA asks the Senate to amend the Bill to delete
Part 16 Provisions relating to regulated workers particularly**

- **Division 1 – Overarching road transport matters.**
- **And all subsequent Divisions 2, 3, 4, relating to road transport matters.**

(pages 128 to 130 of the Bill)

1. Background : The Loophole Bill reintroduce the 2012 Road Safety Remuneration Tribunal agenda

Let there be no pretence, the Loophole Bill contains a reintroduction of the disastrous 2012 Road Safety Remuneration Tribunal (RSRT) but is done through a re-configured legislative format.

The 2012 RSRT lay in limbo until 2016 when it was fully implemented. In operation, it threatened the livelihoods of up to (on some estimates) 80,000 independent truck drivers across Australia. The RSRT triggered the bankruptcy, or near-bankruptcy, of many of those independent drivers before the RSRT was abolished.

The Loophole Bill's reintroduction of the RSRT has a particular emotional resonance for Self-Employed Australia. In 2016, SEA went to the High Court to challenge the constitutional validity of the RSRT under section 92 of the Constitution (interstate trade). In doing this we raised funds from independent truck drivers themselves. Our submissions to the High Court included affidavits and supporting testimony from some 24 independent truck drivers across Australia. These people were just some of a larger network of drivers with whom we were involved.

On Friday 15 April 2016, we appeared before the Chief Justice of Australia (French CJ). His Honour on that day remitted the matter to the Federal Court stating, "*The constitutional case may be arguable...*" On 19 April Tuesday 2016, the Australian Senate voted to repeal the RSRT. Its abolition received Royal Assent that evening. On Friday 22 April, SEA received the disturbing and upsetting news that two of the independent truck drivers in our network had committed suicide due to RSRT stress. The repeal of the RSRT came too late for them. These were people we knew and had worked with over the High Court appeal.

On 29 April 2016, the [ALP announced it would reintroduce RSRT-like laws](#) on attaining government. The Loophole Bill is the delivery of that ALP undertaking.

The Bill potentially raises constitutional questions on a number of grounds.

We predict that if the Loophole Bill's RSRT-like laws are reintroduced, that again tens of thousands of self-employed, independent truck drivers' livelihoods will be threatened. Based on the experience of the RSRT we should expect bankruptcies in the sector and the potential for suicides.

2. Why the Australian Labor Party and the Transport Workers Union (TWU) persist with efforts to create 'safe rates' legislation

For several decades the TWU has promoted an argument that truck drivers drive unsafely and have road crashes if (and because) the rates they are paid are low, however 'low' is defined.

The TWU has persistently argued that truck drivers will only drive safely if the rates they are paid are controlled by an employment regulatory body. The TWU has further long argued

that because owner-drivers are self-employed and hence not covered by employment regulations, they are consequently unsafe.

The answer, the TWU says, is to force all owner-drivers into employment regulation as this will make owner-drivers safe drivers. The ALP has sought to implement this on a national basis, in the first instance with the RSRT, described above (2012 to 2016). The Loophole Bill now seeks to implement this agenda, again using an RSRT-like legislative structure under the authority of the FWC.

The decision as to whether to support or reject the Loophole Bill's provisions for the road transport sector hinges entirely, we say, on whether the TWU's argument about 'safe rates' is accepted as valid or not.

3. SEA says the TWU 'safe rates' argument is wrong

For almost as long as the TWU has been running the 'safe rates' argument, SEA has been arguing that the 'safe rates' thesis does not hold up as valid. We comment as follows:

Road safety in general: Road safety is affected by many things: the quality of vehicles, the state and quality of roads and the behaviour, performance, and capability and culpability of drivers.

Drivers in particular: The safe rates arguments claims that if drivers are 'underpaid' (however defined), that they are forced or induced to drive long hours leading to fatigue, to take (upper) drugs to stay awake, to speed, to overload their vehicles and generally to drive unsafely. That is, that driver behaviour is a consequence of (and caused by) low pay rates.

Road regulations: However, we observe that road regulations are heavily imposed on all truck drivers and effectively enforced. This includes load limits, required standards for trucks to be registered, strict speed limits, compulsory logs to record driver hours, drug and alcohol testing and so on. In our view, these regulations and their enforcement are vastly more powerful in effecting safe driving than are pay rates organised through the industrial relations system.

Income determines safe driving? An argument could be raised that if the safe rates argument holds valid for truck drivers, should this not also apply to all drivers on the road? That is, that whether any driver on the road drives safely or not, can be, and is pre-determined by, their income level. It's a nonsense idea.

Presumably to accept this would mean that low-income drivers would be unsafe drivers in comparison to high-income drivers who would be safe drivers. We know that this is not reality. A driver's income does not predetermine whether a driver drives safely or not.

We say that the TWU 'safe rates' argument is patently illogical at its core. No matter how the TWU seek to 'prove' their thesis with 'supporting' reports, research and heavy media coverage, we say that the TWU engages in serious misinformation.

Essentially the TWU argument is that pay rates determine whether or not an individual adheres to or breaks the law. It could be said for example that low paid taxi drivers will speed out of a desire to boost their income. This may happen. But equating law breaking to the pay rates of people is not a basis upon which law in Australia is made.

Award/EBA pay rates determine 'safe' driving: The TWU 'solution' to alleged unsafe rates, is to require all truck drivers to be employees or (as in the Loophole Bill) to be regulated as employees. The belief/view must presumably be that all employee drivers are safer drivers than self-employed owner-drivers. This of itself is also illogical. A person's legal status does not presuppose whether or not they will break the law. Australian law does not presuppose or assume to predetermine a person's behaviour based on their status.

Again, SEA has long rejected these arguments as unsustainable and illogical.

Anti-Competition: We hold the view that the effect of forcing self-employed owner-drivers into the employment regulation industrial relations system will be to reduce competition in the road transport industry. That is, that enforced employment regulation of owner-drivers would significantly reduce the competition that the large, dominant trucking firms face from the thousands of independent, small business trucking enterprises.

There is evidence for this.

In 2015, then ACCC Chair Rod Simms gave a major speech on the issue highlighting specific cases where it could be argued that under the mask of an industrial relations agreement a business had colluded with unions to create agreements that would damage competitors. Rod Simms mentioned several cases, but one case stood out. That case was the transport company, Toll, who had been exposed as entering an industrial agreement with the Transport Workers Union on the condition that the TWU would conduct aggressive action against named competitors of Toll with the intention of harming the competitors. The effect of such action would be to harm competition.

[The Simms speech is of major importance.](#) We believe it should be studied in relation to the Loophole Bill's RSRT-like law.

Rod Simms said of the Toll case:

Unions have been given a clear role under the law to represent their members and take action seeking improved wages and conditions. However, this does not give them or businesses cooperating with them a licence to seek to regulate markets. They could take themselves outside the above exemptions if they seek to determine which firms may operate within markets, what prices they can charge or how bids for work will be determined.

In a market economy it should be the market that sets prices and determines who participates and who wins work, not unions or businesses. (page 3)

We assert that the Loophole Bill's RSRT-like laws would result in the regulation of the road transport market through the backdoor of the industrial relations system. These RSRT-like

laws would, on our analysis, give unions “...or businesses cooperating with them a licence to seek to regulate markets”.

We say that the very structure of the Loophole Bill would result in the outcome that Rod Simms says should not occur.

4. The structure of the Bill in relation to owner-drivers

The industrial relations system has a perfectly legitimate role in setting wages and conditions for employees (as defined at common law). We say that this ‘employment’ regulation does not of itself make employee drivers any better or worse than self-employed owner-drivers.

The industrial relations system does not have a legitimate role in regulating self-employed owner-drivers—that is, persons conducting their trucking business using commercial contracts (as defined at common law). To do this is to intrude into the legitimate small business enterprises of owner-drivers. This denies individuals the right to be their own boss and effectively neuters or overrides competition law. This is what the Loophole Bill does in Part 16 Divisions 1 to 4 (pages 128 to 130 of the Bill).

These sections of the Loophole Bill:

- Give power to the Fair Work Commission to impose transport rates and conditions on self-employed owner-drivers.

The Bill does this by:

- Establishing a ‘Road Transport Advisory Group’ (Div3) with an ‘Expert Panel’ (Div2) that together will advise the Fair Work Commission on creating and imposing rules covering parties in the road transport industry. (Div1 40C)
- In other words, the Bill will cover not only employees and employers, but ‘regulated road transport contractors’—that is, self-employed, independent contractor owner-drivers as well.
- The FWC is to then establish ‘standards’ that apply across the industry. These standards are supposed to ‘ensure that the road transport industry is safe’. (Div2 40D)

The standards are concerned with (40E):

- (a) the making and varying of modern awards that relate to the road transport industry;
- (b) the making and varying of road transport minimum standards orders and road transport guidelines;

with the Advisory Group to consist of transport unions and transport business representatives. (40F(2))

That is, the FWC is to be given the power to dictate and impose rates on owner-drivers, overriding the commercial decisions that owner-drivers currently make as part of the normal running of their small business enterprises. These FWC rates are to be applied following ‘advice’ from transport unions (TWU) and transport business representatives.

The FWC-established standards are to apply across the entire ‘road transport industry contract chain.’ (Div4) The FWC is to “...make orders, to be known as road transport industry contractual chain orders,...” (40J(2)(a))
And “...civil penalties for contraventions...” will apply up to 600 units (which could amount to \$187,800 for a “body corporate” as [each penalty unit is currently \\$313.](#))

That is, the entire contract chain in the road transport sector is to be covered. This would presumably result in coverage extending beyond trucks themselves to warehousing, and goods collection and delivery points, including farms, shops, mines and so on.

Owner-drivers

The Bill is clearly targeted to include self-employed owner drivers as the Bill states that matters to be dealt with will include “...an employee-like minimum standards order...” and “employee-like guidelines...” (Div2, 241(10D)(a)&(b)).

That is, these sections of the Bill are linked to, and rely on, the ‘employee-like’ definitions under the Loophole Bill (Sections 15HLP) for their authority. Self-employed owner-drivers are also captured under the ‘regulated worker’ definitions and ‘services contract’ definitions. (See SEA paper Number 2 on 15HLP.)

The Bill defines a “regulated worker” where (15G):

- “(a) the person is an employee-like worker ; or
- (b) the person is a regulated road transport contractor...”

And defines a “regulated road transport contractor” where (15Q):

- “(a) the person is:
 - (i) an individual who is a party to a services contract in their capacity as an individual...”

And includes individuals under company, trust and partnership arrangements.

The Bill also refers to collective agreements.

Div3A ‘Definitions relating to regulated workers’ at 15B says:

- “A **collective agreement** means the following:
 - (a) an employee-like worker collective agreement ...”

The Bill refers to a “...contractor high income threshold...” (15C) as well as “minimum standards guidelines” (15D).

In other words, ‘collective agreements’ are to be imposed on ‘employee-like’ workers (owner-drivers in this instance) such that the individual nature of each owner-driver’s enterprise is to be eliminated. Through this mechanism individual owner-drivers will be denied their individuality and be forced to be treated like an employee in a big trucking business. This is the legislated death of small business, independent truck drivers.

Part 16—Provisions relating to regulated workers (Pages 128 to 139)

Division 1—Overarching road transport matters

Fair Work Act 2009

238 After section 40B

Insert:

Part 1-4—Road transport industry objective and advisory group

Division 1—Guide to this Part

40C Guide to this Part

This Part deals with special provisions relating to the road transport industry.

Division 2 sets out the road transport objective.

The Expert Panel for the road transport industry must have regard to the road transport objective when performing functions and exercising powers under certain provisions of this Act. These functions and powers cover both employees and employers and regulated road transport contractors and road transport businesses.

Division 3 establishes the Road Transport Advisory Group. This Group includes representatives from the road transport industry. It has advisory functions under Chapter 3A (in relation to road transport minimum standards) and the prioritisation of the FWC's work so far as it relates to the road transport industry.

Division 4 provides for regulations in relation to the road transport industry contractual chain.

Division 2—The road transport objective

40D The road transport objective

In performing a function or exercising a power under this Act, the Expert Panel for the road transport industry must take into account the need for an appropriate safety net of minimum standards for regulated road transport workers and employees in the road transport industry, having regard to the following:

- (a) the need for standards that ensure that the road transport industry is safe, sustainable and viable;
- (b) the need to avoid unreasonable adverse impacts upon the following:
 - (i) sustainable competition among road transport industry participants;
 - (ii) road transport industry business viability, innovation and productivity;
 - (iii) administrative and compliance costs for road transport industry participants.

This is the *road transport objective*.

Note: The matters that must be dealt with by the Expert Panel for the road transport industry are matters relating to modern awards and road transport minimum standards orders relating to the road transport industry (see subsection 617(10B)). The President also has a discretion to direct the Expert Panel for the road transport industry to deal with a matter (see subsection 617(10D)).

Division 3—Road Transport Advisory Group

40E Establishment of Road Transport Advisory Group

- (1) There is to be a Road Transport Advisory Group.

- (2) The function of the Road Transport Advisory Group is to advise the FWC in relation to matters that relate to the road transport industry including, but not limited to the following:
 - (a) the making and varying of modern awards that relate to the road transport industry;
 - (b) the making and varying of road transport minimum standards orders and road transport guidelines;
 - (c) the prioritisation by the FWC of matters relating to the road transport industry;
 - (d) such other matters as are prescribed by the regulations.
- (3) Before advising the FWC in relation to a matter, the Road Transport Advisory Group must consult any relevant subcommittee established under section 40G.
- (4) The President must consult, and have regard to the views of, the Road Transport Advisory Group in determining priorities for the work of the FWC in relation to matters affecting the road transport industry.

40F Membership of Road Transport Advisory Group

- (1) The Road Transport Advisory Group consists of such members as the Minister from time to time appoints.
- (2) In appointing the members of the Road Transport Advisory Group, the Minister must ensure that the membership consists of persons who are members of or who are nominated by the following:
 - (a) an organisation that is entitled to represent the industrial interests of one or more regulated road transport contractors;
 - (b) an organisation that is entitled to represent the industrial interests of one or more road transport businesses.
- (3) A member of the Road Transport Advisory Group holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

Note: A member of the Road Transport Advisory Group is eligible for reappointment (see subsection 33(4A) of the *Acts Interpretation Act 1901*).
- (4) The Minister may revoke a person's appointment to the Road Transport Advisory Group.
- (5) The President may give the Road Transport Advisory Group directions as to the way in which the body is to carry out its functions.
- (6) The President may appoint a member of the Expert Panel for the road transport industry to chair the Road Transport Advisory Group.

40G Road Transport Advisory Group subcommittees

- (1) The Road Transport Advisory Group may establish subcommittees to advise it in relation to matters relevant to the performance of its functions.
- (2) A subcommittee may include persons who are not members of the Road Transport Advisory Group, but a subcommittee must be chaired by a member.

Division 4—Regulations relating to the road transport industry contractual chain

40H Meaning of road transport industry contractual chain participant

A road transport industry contractual chain participant is a person connected with the road transport industry:

- (a) who is:
 - (i) a national system employer; or
 - (ii) a national system employee; or
 - (iii) a constitutional corporation; or

- (iv) a regulated road transport contractor; or
- (v) a road transport business; or
- (b) who satisfies the requirements prescribed by the regulations for the purposes of this definition.

40J Regulations about the road transport industry contractual chain

- (1) The regulations may make provision for and in relation to matters relating to the road transport industry contractual chain or road transport industry contractual chain participants.
- (2) Without limiting subsection (1), the regulations may do the following:
 - (a) empower the FWC to make orders, to be known as road transport industry contractual chain orders, that confer rights and impose obligations on road transport industry contractual chain participants;
 - (b) specify the matters that a road transport industry contractual chain order must, may or must not deal with;
 - (c) empower the FWC to vary, suspend or revoke road transport industry contractual chain orders;
 - (d) empower the FWC to deal with disputes between road transport industry contractual chain participants covered by road transport industry contractual chain orders;
 - (e) provide for and in relation to the interaction between road transport industry contractual chain orders, fair work instruments and other instruments under this Act or the regulations;
 - (f) provide for and in relation to the interaction between the regulations or road transport industry contractual chain orders and:
 - (i) a law of the Commonwealth, a State or a Territory; or
 - (ii) an instrument made under such a law;
 - (g) provide for civil penalties for contraventions of the regulations, which must not exceed the following:
 - (i) for an individual—60 penalty units;
 - (ii) for a body corporate—600 penalty units;
 - (h) empower the Fair Work Ombudsman to enforce road transport industry contractual chain orders.
- (3) Before making regulations under subsection (1), the Minister must be satisfied that the regulations are for the purposes of promoting the following:
 - (a) equitable workplace relations outcomes;
 - (b) a safe, sustainable and viable road transport industry;
 - (c) sustainable competition among road transport industry participants;
 - (d) fairness between road transport industry contractual chain participants.

Division 2—Expert Panel for the road transport industry

Fair Work Act 2009

239 At the end of subsection 157(1) (after note 3)

Insert:

Note 4: If the FWC is making, varying or revoking a modern award that the President considers might relate to the road transport industry, it must take into account the road transport objective (see section 40D).

240 After subsection 582(4)

Insert:

- (4A) If:
 - (a) the President gives a direction that 2 or more matters be dealt with jointly; and

- (b) at least one of the matters:
 - (i) must be dealt with by an Expert Panel constituted to deal with a matter that relates to the road transport industry (see subsection 617(10B)); or
 - (ii) is a matter that the President considers might relate to the road transport industry and has directed be dealt with by an Expert Panel constituted for the purpose (see subsection 617(10D));

the direction that the matters be dealt with jointly must require that all the matters be dealt with by an Expert Panel constituted to deal with a matter that relates to the road transport industry.

Note: For the constitution of an Expert Panel for that purpose, see subsection 620(1E).

- (4B) Subsection (4A) does not limit the power of the President to direct that other matters be dealt jointly with by an Expert Panel.
- (4C) The President may give a direction that an FWC member deal with a matter that the President considers might relate to the road transport industry, if the FWC member has knowledge of, or experience in, the road transport industry, whether or not the President considers that the matter might relate to another industry or sector.

241 After subsection 617(10A)

Insert:

Expert Panel for road transport industry

- (10B) The following must be made by an Expert Panel constituted for that purpose:
 - (a) a modern award made under Part 2-3 that the President considers might relate to the road transport industry;
 - (b) a determination made under subsection 157(1) varying or revoking a modern award that the President considers might relate to the road transport industry;
 - (c) a road transport minimum standards order made under paragraph 536JY(1)(a) or a determination made under subsection 536KQ(1) varying or revoking a road transport minimum standards order;
 - (d) road transport guidelines made under subsection 536KR(1) or a determination made under subsection 536KZ(1) varying or revoking road transport guidelines;
 - (e) such other instruments as are prescribed that the President considers might relate to the road transport industry.

Note 1: For the constitution of an Expert Panel for that purpose, see subsection 620(1E).

Note 2: The road transport objective is relevant to the functions of an Expert Panel referred to in this subsection, see section 40D.

President's considerations

- (10C) For the purposes of subsection (10B), if the President considers that a determination or a modern award, or a prescribed instrument, might relate to the road transport industry, it does not matter if the President considers that the determination or modern award might relate to another industry or sector.
- (10D) The President may direct that the following matters be dealt with by an Expert Panel constituted for the purpose:
 - (a) an employee-like worker minimum standards order or a determination varying or revoking an employee-like worker minimum standards order, if the President considers that the order might relate to the road transport industry or sector;
 - (b) employee-like guidelines or a determination varying or revoking employee-like guidelines, if the President considers that the guidelines might relate to the road transport industry;
 - (c) any other prescribed instrument or matter that the President considers might relate to the road transport industry;

whether or not the President considers that the matter might also relate to another industry or sector.

Note: For the constitution of an Expert Panel for that purpose, see subsection 620(1E).

242 At the end of subsection 617AA(4)

Add:

- ; (e) performing a function or exercising a power under Chapter 3A;
- (f) dealing with a matter that the President considers might relate to the road transport industry.

243 Subsection 617A(1)

Omit “or (1D)”, substitute “, (1D) or (1E)”.

244 Subsection 617A(1) (note)

After “remuneration,”, insert “the road transport industry,”.

245 After subsection 620(1D)

Insert:

Constitution of Expert Panel for the road transport industry

- (1E) An Expert Panel constituted under this subsection for a purpose referred to in subsection 617(10B) or (10D) must include (except as provided by section 622):
- (a) the President, or a Vice President or Deputy President appointed by the President to be the Chair of the Panel; and
 - (b) at least one Expert Panel Member or other FWC Member who has knowledge of, or experience in, the road transport industry; and
 - (c) subject to subsection (2A), such number (if any) of other FWC Members as the President considers appropriate.

246 Subsection 620(2A)

Omit “or (1D)”, substitute “, (1D) or (1E)”.

247 Subsection 620(2A)

Omit “or paragraphs (1D)(b) and (c)”, substitute “, paragraphs (1D)(b) and (c) or paragraph (1E)(b)”.

Division 3—Minimum standards for regulated workers

Fair Work Act 2009

248 After section 15A

Insert:

Division 3A—Definitions relating to regulated workers

Subdivision A—General

15B Meaning of collective agreement

A collective agreement means the following:

- (a) an employee-like worker collective agreement (see subsection 536MK(4));
- (b) a road transport collective agreement (see subsection 536MK(5)).

15C Meaning of contractor high income threshold

- (1) Subject to this section, the contractor high income threshold is the amount prescribed by, or worked out in the manner prescribed by, the regulations.
- (2) A regulation made for the purposes of subsection (1) has no effect to the extent that it would have the effect of reducing the amount of the contractor high income threshold.
- (3) If:

- (a) in prescribing a manner in which the contractor high income threshold is worked out, regulations made for the purposes of subsection (1) specify a particular matter or state of affairs; and
 - (b) as a result of a change in the matter or state of affairs, the amount of the contractor high income threshold worked out in that manner would, but for this subsection, be less than it was on the last occasion on which this subsection did not apply;
- the contractor high income threshold is the amount that it would be if the change had not occurred.

15D Meaning of *minimum standards guidelines*

Minimum standards guidelines means the following:

- (a) employee-like worker guidelines (see subsection 536KR(2));
- (b) road transport guidelines (see subsection 536KR(3)).

15E Meaning of *minimum standards order*

A minimum standards order means the following:

- (a) an employee-like worker minimum standards order (see subsection 536JY(2));
- (b) a road transport minimum standards order (see subsection 536JY(3)).

15F Meaning of *regulated business*

A person is a ***regulated business*** if:

- (a) the person is a digital labour platform operator (see section 15M); or
- (b) the person is a road transport business (see subsection 15R).

15G Meaning of *regulated worker*

A person is a ***regulated worker*** if:

- (a) the person is an employee-like worker (see section 15P); or
- (b) the person is a regulated road transport contractor (see section 15Q).

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Subdivision C—Road transport industry

15Q Meaning of *regulated road transport contractor*

(1) A person is a ***regulated road transport contractor*** if:

- (a) the person is:
 - (i) an individual who is a party to a services contract in their capacity as an individual (other than as a principal), and performs work under the contract; or
 - (ii) if a **body corporate** is a party to a services contract (other than as a principal)—an individual who is a director of the body corporate, or a member of the family of a director of a body corporate, and performs work under the contract; or
 - (iii) if a **trustee of a trust** is a party to a services contract in their capacity as a trustee (other than as a principal)—an individual who is a trustee of the same trust and performs work under the contract, whether or not the individual is a party to the contract; or
 - (iv) if a **partner in a partnership** is a party to a services contract in their capacity as a partner (other than as a principal)—an individual who is a partner in the same partnership and performs work under the contract, whether or not the individual is a party to the contract; and
- (b) the person performs all, or a significant majority, of the work to be performed under the services contract; and
- (c) the person does not perform any work under the services contract as an employee; and
- (d) the **work performed under the services contract is work in the road transport industry;** and

- (e) the **person is not an employee-like worker who performs work in the road transport industry under the** services contract.
- (2) In this Part, a reference to an independent contractor includes a reference to an individual who is a regulated road transport contractor within the meaning of subsection (1).

15R Meaning of road transport business

- (1) A person is a **road transport business** if the person:
- (a) **receives services under a services contract**, where the services contract provides for the performance of work in the road transport industry; or
 - (b) **is a constitutional corporation**, or is included in a class of constitutional corporations, prescribed by the regulations for the purposes of this paragraph.
- (2) For the purposes of paragraph (1)(b), a business or undertaking may be specified by name or by inclusion in a specified class or specified classes.

15S Meaning of road transport industry

- (1) The **road transport industry** means:
- (a) the **road transport and distribution industry** within the meaning of the Road Transport and Distribution Award 2020 as in force on 1 July 2024, with such modifications (if any) as are prescribed by regulations for the purposes of this paragraph; and
 - (b) the **long distance operations in the private road transport industry** within the meaning of the Road Transport (Long Distance Operations) Award 2020 as in force on 1 July 2024, with such modifications (if any) as are prescribed by regulations for the purposes of this paragraph; and
 - (c) **the waste management industry** within the meaning of the Waste Management Award 2020 as in force on 1 July 2024, with such modifications (if any) as are prescribed by regulations for the purposes of this paragraph; and
 - (d) the **cash in transit industry** within the meaning of the Transport (Cash in Transit) Award 2020 as in force on 1 July 2024, with such modifications (if any) as are prescribed by regulations for the purposes of this paragraph; and
 - (e) the **passenger vehicle transportation industry** within the meaning of clause 4.2 of the Passenger Vehicle Transportation Award 2020, not including paragraph 4.2(c), as in force on 1 July 2024, with such modifications (if any) as are prescribed by regulations for the purposes of this paragraph; and
 - (f) any **other industry** (however described) prescribed by the regulations for the purposes of this paragraph.
- (2) For the purposes of paragraph (1)(f), the regulations may prescribe an industry by applying, adopting or incorporating any matter