



Friday Bulletin

25th March 2016

SA Road Transport Association

ABN: 54 728 832 614
Unit 1b, 40 Birralee Road, Regency Park SA 5010
PO Box 2420, Regency Park SA 5942

Tel: 08 8445 8177 Fax: 08 8445 8199

Email: sarta@sarta.org.au

Web: www.sarta.org.au

this weeks bulletin is sponsored by...



In This Issue:

1. SARTA urges everyone to be Safe this Long Weekend
2. Office Closed Over Easter Break
3. Easter Public Holidays
4. Tribunal adds Insult to Injury, Hauling Stressed Small Business Owners in Over Easter
5. Today SARTA sent a letter to the Road Safety Remuneration Tribunal

1. SARTA urges everyone to be Safe this Long Weekend

1. Ensure you allow more time in Schedules to deal with the holiday traffic;
2. Brief your drivers and ensure they understand that:
 - a) There will be far more cars on the road and many tired drivers;
 - b) 75% plus of fatal car-truck accidents are caused by the motorists;

So it's essential that your drivers:

 - i. EXPECT POOR DECISIONS by motorists
 - ii. GIVE the motorists more room for error and ANTICIPATE THEIR MISTAKES
 - iii. Allow more time for each leg of their trip for heavy traffic and delays.
3. Do EVERYTHING YOU CAN to help keep your drivers safe.
4. Be nice to the Easter Bunny.

2. SARTA Offices Closed Over Easter: Back to Business Tuesday 29th



Our offices will be closed over Easter from Good Friday to Easter Monday.

We will be re-opening 8:30am, Tuesday 29th March.

3. Easter Public Holidays

- **Good Friday:** Friday 25th March
- **Easter Saturday:** Saturday 26th March
- **Easter Monday:** Monday 28th March

What employees get:

- **If they DON'T work on the Public Holiday but the public holiday falls on a day the employee *normally* DOES work:**

Full time and part time employees are entitled to be paid at their base rate of pay for the ordinary hours that they would have otherwise worked.

This base rate of pay doesn't include any incentive-based payments, bonuses, loadings, monetary allowances, overtime or penalty rates.

- **The public holiday falls on a day the employee DOES NOT normally work and they do not work it:**

The employee is not entitled to payment if the public holiday falls on a day they do not normally work.

- **If they DO work on the Public Holiday:**

Payment for working for these Public Holidays under the Modern Transport Awards are as follows:

	Good Friday	Other Public Holidays
LOCAL DRIVER: Employee DOES Work on the PH	300% for all hrs worked on Good Friday	Pay 250% for all their hours worked. (this INCLUDES their 7.6 hrs. Public Holiday entitlement)
LONG DISTANCE DRIVER: Employee DOES Work on the PH	Pay their normal trip rates for their work <u>PLUS</u> 30% of THEIR base weekly Award rate.	Pay their normal trip rates for their work <u>PLUS</u> 20% of THEIR base weekly Award rate.

NOTE:

Rosters can't be changed to avoid the payment of public holiday entitlements and penalties.

4. Tribunal adds Insult to Injury, Hauling Stressed Small Business Owners in Over Easter

SARTA is fighting tooth and nail to protect small Owner Driver Businesses who overnight, were ordered to appear at the Road Safety Remuneration Tribunal during the Easter Long Weekend.

These businesses were absurdly given 23 Minutes to Appeal the Order to Appear over the Easter Weekend, 23 MINUTES.

Thanks to the last minute hard work from Neville John at KJK Legal and Steve Shearer at SARTA, 2 SARTA Members who were ordered to appear are now not required to do so.

Let's hope other Industry Associations around the country have been able to provide their members the same assistance for those who have been ordered to appear at the RSRT hearing this long weekend.

SARTAs Media Release on this subject is as follows:

Tribunal adds Insult to Injury, Hauling Stressed Small Business Owners in Over Easter- 24th March 2016

In an extraordinarily insensitive and utterly unnecessary move, the Road Safety Remuneration Tribunal (RSRT) is hauling small mum and dad trucking business owners into court over Easter for hearings.

Tens of thousands of small mum and dad businesses in the trucking industry are already extremely stressed by the impending collapse of their businesses under the weight of the RSRT's Order for Minimum Rates, which will price them out of business.

Now, at the very time that those mums and dads would have desperately been looking forward to a rare opportunity for family time to console and support each other over the impending doom, insult has been added to injury by issuing Orders late yesterday demanding that they appear over Easter, for as long as it takes on Saturday, Sunday and Monday, and to Produce all manner of records regarding decisions that they may or may not have made regarding the use of Contractors under the Minimum Rates Order: an Order which has not even started yet and so there can be no breaches at this point.

The industry is in shock and it's difficult to see this as anything other than unconscionable. It is certainly grossly insensitive and it will only add to the stress and trauma for all these already extremely stressed small business owners.

Of course there will also be cynics who will inevitably see this as an intimidation tactic, whether that is true or not. It certainly will never be seen as a fair and reasonable approach.

It is tragic that small mum and dad business people, who are simply reacting legally and responsibly to the Minimum Rates Order and making sensible and utterly necessary business decisions to survive and continue to operate safely and legally, are being treated in this way.

5. Today SARTA sent a Letter to the Road Safety Remuneration Tribunal

This morning, SARTA made a Submission to the RSRT, in reply to the All the Submissions made by the 21st March, regarding the Variation to the Draft Order.

The letter we sent is below:

In accordance with the Directions issued by the Tribunal on 15 March 2016, we make this submission in reply to submissions made by others by the 21st March.

The Commonwealth, in its submission, commented on the holding of hearings over Easter and submitted that the Tribunal ought vacate those Hearings in favour of hearings next week, given the religious and social importance of Easter to families. We support those submissions and add that at a time when small mum and dad family business owners are already extremely stressed by the impending collapse of their businesses as a direct result of the Order, Easter is a time that they would have been desperately looking forward to the rare opportunity of spending time together with their family and friends as they support and console each other over the devastating impact of the Order on their businesses and their lives. Ordering them to appear and produce documents over Easter, with just 2 days notice seems far from a being a fair and reasonable approach.

As it stands the Order is due to commence on 4th April. There is no harm to be done if Hearings next week were to result in that date being changed to a later date and we submit that there is no need to add stress to these already stressed small business operators by conducting hearings over Easter.

In its submission on 21 March the Transport Workers Union (TWU) argued in essence that:

1. There is no new evidence being presented by the various submissions from industry;
2. That the Tribunal has already considered the issues and ought not re-visit it decision (to issue the Order in its current form); and
3. In particular that the industry's numerous and wide-spread concerns regarding the confusion regarding the meaning and coverage of "independent contractor driver" are spurious because it is the same definition as that which is in the 2014 Order and no concerns have been raised with that.

In response to these submissions by the TWU we respectfully submit:

1. The TWU assertion that there is nothing new and no new evidence is incorrect.
 - a. The simple and irrefutable fact is that since the Order was made many hundreds of operators, contractors and industry bodies have sought, for the first time, advice and guidance from the Fair Work Ombudsman (FWO) on the details of the Order and most critically on the definition of 'Independent contractor driver' and they have received confusing, inconsistent and frequently changing advice from the FWO, which has clearly struggled to come to terms with the complexities of the Order and the industry to which it applies;

- b. The FWO has no less than three times issued new advice on this point, withdrawing its previous advice, most recently on 11 March. That is a new and fundamentally critical change;
 - c. It is utterly nonsensical to argue that those affected by the Order ought be able to understand the Order if even the FWO can not;
 - d. The fact that the Order sets out the Minimum Rates that shall apply and that the structure of those rates is extraordinarily complex and fails to deal adequately with the specifics and variations of operations and vehicle types in the industry, is also new and also mitigates against ready understanding of and preparation for, the implementation of the Order on 4th April. Any assertion to the contrary simply demonstrates an abject failure to comprehend the realities;
2. That the TWU position that if there is to be a delay in the start date that it should only be until 1 October and that ought only apply to the payment of the Minimum Rates, has no logical basis nor would it be a fair and reasonable approach, as required under the Tribunal's legislation.
3. We have analysed the 470 submissions listed as of 10am on Tuesday 22nd March and of those it is clear that:
 - a. 401 support the Draft Variation Order apply a start date of 1/1/17;
 - b. Only 6 support 4/4/16
 - c. 16 propose other dates; and
 - d. 47 simply oppose the Order entirely.
4. It is clear therefore that the vast majority of submissions support the 1/1/17 start date.

S. B. Shearer
Executive Director