



New South Wales

ATTORNEY GENERAL  
MINISTER FOR INDUSTRIAL RELATIONS

---

OIR No: 09DOC0363

Mr Russell Keith  
Committee Manager  
Staysafe Committee  
Parliament House  
Macquarie Street  
Sydney NSW 2000

Dear Mr Keith

I am writing to you regarding the NSW Parliamentary Joint Standing Committee on Road Safety (Staysafe) Inquiry into Heavy Vehicle Safety.

In September 2008 the NSW Government made a submission to the National Transport Commission's Inquiry into Safe Pay in the Transport Industry (see attached). The terms of reference to that Inquiry were broadly similar to those currently under the consideration of the Staysafe Committee. Accordingly, I am enclosing a copy of the Government's September 2008 submission for the Committee's consideration.

I note that the Staysafe Committee will inquire into and report on heavy vehicle safety, with particular reference to, at (a) of the terms of reference:

the adequacy of implementation of the NSW Occupational Health and Safety Amendment (Long Distance Truck Driver Fatigue) Regulation 2005 and the Transport Industry - Mutual Responsibility for Road Safety (State) Award, particularly in relation to heavy vehicle driver fatigue management and safe driving plans...

As outlined in the attached submission, the position of this Government is that matters of this nature are best dealt with by an independent statutory tribunal with broad powers. In the NSW industrial relations jurisdiction such a tribunal is provided by the Industrial Relations Commission of NSW, and the powers available to it under Chapter 6 of the *NSW Industrial Relations Act 1996*.

The framework established by Chapter 6, and particularly the powers it confers on the NSW Commission are the best, fairest and most efficient means of addressing issues of safety in the heavy vehicle transport industry and identifying sustainable solutions to those issues.

This position and further information is presented in more detail within the attached September 2008 submission and its appendices.

As the attached submission was made approximately six months ago, to ensure the Committee is abreast of all relevant issues further updated material is also attached for the Committee's consideration.

It will be noted at para 5.7 of the September 2008 submission an overview was provided of the compliance activities undertaken by inspectors from the NSW Office of Industrial Relations in the road transport industry, with particular reference to the issue of mutual responsibility industrial instruments. In the interim period further compliance activities have now been undertaken.

During the 15 months to April 2009 the Office of Industrial Relations conducted 23 separate compliance campaign to ensure that both employers and employees were fully aware of their important safety obligations under the *Transport Industry – Mutual Responsibility for Road Safety (State) Award*.

During these campaigns over 320 employers were visited, employing nearly 5,000 workers. In 37 workplaces significant breaches of NSW industrial relations laws were identified. The total number of breaches identified was 57, with the majority (over 40 per cent) being for failure to display a copy of the award. Fifteen workplaces (28 per cent) were found to have breached a term or terms of the industrial instrument.

At paras 5.9 to 5.12 of the September 2008 submission, the NSW Government noted its concerns about the award modernisation process currently being undertaken by the Australian Industrial Relations Commission (AIRC). At the time that submission was lodged no modern awards within the transport industry had yet been made.

The NSW Government has made a series of submissions to the AIRC's award modernisation process to identify ways in which exposure draft awards might detrimentally affect NSW workplaces and asserted that such effects be reversed. In January of this year the second tranche of exposure draft awards were published; including three from within the transport industry.

A formal submission was made to these exposure drafts regarding concerns about the potential diminution of rates of pay and conditions for NSW employees. Should the Committee require further details this submission may be found on the NSW Office of Industrial Relations [website](#).

On 3 April 2009 the AIRC published its *Road Transport and Distribution Award 2010* and *Road Transport (Long Distance Operations) Award 2010*, as part of the second tranche of the award modernisation process. If further details are required these modern awards can be found on the AIRC website at:  
[http://www.airc.gov.au/awardmod/awards/road\\_distribution.pdf](http://www.airc.gov.au/awardmod/awards/road_distribution.pdf)  
[http://www.airc.gov.au/awardmod/awards/road\\_long\\_distance.pdf](http://www.airc.gov.au/awardmod/awards/road_long_distance.pdf)

The award modernisation process is not due to be finalised until the end of 2009 and the AIRC has foreshadowed that further amendments (including transitional provisions) may be made to modern awards. The NSW Government will continue its integral role in the process and make further submissions where it is considered appropriate to do so.

Should members of the Committee wish to be provided with further information or detail regarding the award modernisation process and its impact upon the transport industry any queries in the first instance should be directed to Mr George Petrovic, Principal Policy Analyst, Office of Industrial Relations on (02) 9020 4622 or at [George.Petrovic@oir.commerce.nsw.gov.au](mailto:George.Petrovic@oir.commerce.nsw.gov.au)

Yours sincerely



(John Hatzistergos)