



Australian Road Transport
Industrial Organisation

ABN: 63 734 697 902

AUSTRALIAN ROAD TRANSPORT INDUSTRIAL ORGANISATION

Respect, Respond and Represent

Senate Inquiry into the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022. (the Bill).

Submission on behalf of the
Australian Road Transport Industrial Organisation

November 2022

Submitted by:
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1.0 ABOUT THE AUSTRALIAN ROAD TRANSPORT INDUSTRIAL ORGANISATION (ARTIO)

1. Introduction

The Australian Road Transport Industrial Organisation (ARTIO) is an employer representative of the transport industry in Australia. It has over 400 member companies nationally and is dedicated to the service of members interests in all sectors of the transport and logistics industry.

With over 40 years' experience and a specific business focus, we possess the industry acumen, market knowledge and industry contacts that enable members to capitalise on the current industrial and regulatory environments.

As a registered representative in the Fair Work Commission representing road transport operators, the organisation works with all levels of government, the unions, statutory authorities and the industry to achieve mutually beneficial outcomes. ARTIO is made up of state based Non-For-Profit Transport Associations that are committed to enhancing the image of the industry while helping improving the commercial and industrial environment for our members to operate.

2.0 Executive Summary

The road freight industry is languishing under the weight of incessant regulation that serves the demands of statutory bodies and not the needs of the industry. The basic elements of safety, productivity, transparency and accountability are not being adequately addressed within the road freight industry within Australia today.

The introduction of the Secure Jobs, Better Pay Bill Amendments 2022 should not be looked upon as just another re-hash of old legislation but rather an opportunity to deliver greater accountability, transparency and fairness for employees, employers and subcontractors in its reform.

The importance of this Inquiry will enable these issues and more to be clearly defined and understood. This senate committee has the opportunity to establish a balanced perspective that will improve current regulation, include those stakeholders that have fallen outside of current legislation and ensure that the Australian workforce has the security of a workplace Where they cannot be disadvantaged.

We look forward to the inquiry's outcomes and recommendations.



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3.0 Submission

There are a number of proposed changes within The Bill that are acceptable in their current presentation that ARTIO does not see the need to comment or provide additional perspectives. These proposals are listed separately below.

They are:

1. Sexual Harassment
2. Gender Equity – Equal Remuneration principle
3. Enterprise Bargaining – Better off overall test
4. Enterprise Bargaining – Approval process
5. Enterprise Bargaining – Industrial action
- 6 Enterprise Bargaining – Arbitrated outcomes
7. Fair Work Commission Expert Panels
8. Australian Building and Construction Commission and the Registered Organisations Commission
9. Small Claims
10. Advertising Jobs

What is important to ARTIO and its members are the proposed changes and their impact and consequences of other elements within the Bill.

ARTIO is strongly requesting that the following perspectives be taken into consideration when evaluating the recommendations from this inquiry.

Greater discussion information and a true balance needs to be included to ensure that there is not a bias that creates inequities within the workplace that may not already be initially noticeable.

1. NES – Request for Flexible working arrangements.

While the onset of COVID has put pressure on enterprises to be more flexible for workers to vary their work place and work times, the proposed changes do not address the variety of issues that these changes now include.

While the level of negotiation of agreements must be reinforced there are many issues that are not being considered within the suggested framework. Workplace risk, mental health, supervision and management and transferred operating costs are just a few of the issues that should be considered when looking to form a basis upon a more flexible workplace agreement is discussed.

This proposal is unreasonable for small business, is unnecessarily burdensome and may bring commercial viability into consideration.



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2. Gender Equity – pay secrecy clauses

Not all workplace agreements are the same and not all workers want to be treated and acknowledged as being the same. The degree of variance can be huge in the logistics industry whereby a certain type of task can, from the outside, appear to be the same, but when applied is more complex and complicated and need a different set of skill and knowledge.

Therefore, without expert knowledge and advice, workers could be unfairly acknowledged in their remuneration and pay structures should the legislation not define and provide flexibility and a more specific context. Having the open remuneration levels does not create fairness but rather take a worker's individual rights.

3. Fixed and maximum term contracts.

Shortening a fixed term contract does not benefit workers within the logistics industry.

Confidence in an employment agreement is reinforced on longer terms. By introducing this proposal, the uncertainty between those people who may need to spend capital on their own equipment or an apprentice being sure their employer will support them to the end of their apprenticeship will increase sharply.

ARTIO does not endorse this proposal.

4. Enterprise Bargaining – Termination of agreements

The ability to finalise and negotiate an EA is not always straight forward or achievable within a specific timeframe. There is no doubt that certain conditions for termination can apply such as a lack of employees covered or business viability, however, should the negotiation process become protracted the ability to terminate the agreement should not be threatened by a predetermined timeframe.

5. Enterprise Bargaining – multi-enterprise agreement

The proposed changes to Single Interest Bargaining may cause certain productivity issues if employers are forced to bargain together. At present, employers have a narrow ability to bargain together, should they choose.

The proposed changes open-up the criteria and also open it up to employees initiating multi-employer bargaining – for example TWU yards across businesses working together to force up wages in certain areas or where they work with the same suppliers.

In transport sectors where there are a small number of competitors who may be drawing work standards between each other the Supported Bargaining Authorisation model could be effective and deliver a fairer business framework, however, in a multi-employer transport sector such as general/express freight this model could be used in a manner that is detrimental to the overall sector.

ARTIO believes that this proposal needs further explanation and parameters.



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6. Enterprise Bargaining – supported bargaining

As with multi-enterprise agreements the Supported Bargaining Authorisation would not be in balance for a variety of different sized enterprises and structures. This proposal limits the ability of the employer to negotiate and ensure that the workplace is adequately considered.

Direct consideration within the transport sector would be better served by installing an industry tribunal that would have oversight of the issues that this proposal tries to address and would deliver better outcomes for the transport industry.

7. Enterprise Bargaining – Single-interest employer agreements

As with multi-enterprise agreements this proposal would be too restrictive for the employer to have confidence in being able to plan and deliver of business continuity.

The Australian Road Transport Industrial Organisation does not endorse the introduction of the 7 x reforms at this time as noted above.

Further investigation needs to be undertaken by the government into the projected productivity value of these changes before they are considered for reintroduction to Parliament.

As per our submission it should be noted that there are some reform amendments that would make a significant contribution to the improvement of workplace relations and conditions.

ARTIO strongly recommends that the Bill be more fully scrutinised, refined, and due consideration taken in from an Employers perspective.

ARTIO remains available to provide greater detail on the issues within this submission.

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