

Road Transport Advisory Group and its subcommittees

Terms of Reference

December 2024

Change/update history

Date	Record of changes/updates to document
26 September 2024	Creation of Terms of Reference
6 December 2024	Revision 1, including insertion of Guiding Principles in Attachment A

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Operational context

1. From 26 August 2024, the Fair Work Commission (**Commission**) has power to set minimum standards and make guidelines in the road transport industry.
2. The Road Transport Advisory Group (**RTAG**) is established under s.40E of the Fair Work Act 2009 (**the Act**). It supports the Commission in carrying out its functions relating to the road transport industry by advising the Commission about the interests of road transport businesses and regulated road transport contractors.
3. The RTAG consists of such members as the Minister for Employment and Workplace Relations appoints from time to time under s.40F of the Act.
4. The President of the Commission may, under s.40F(6) of the Act, appoint a Member of the Commission's Expert Panel for the road transport industry (who is also a Member of the Commission) to chair the RTAG.
5. The RTAG is not part of the Commission. Members of the RTAG appointed by the Minister under s. 40F of the Act, and members of its subcommittees, are not Commission Members under s.626 of the Act.

Role of the RTAG

6. Under s.40E(2) of the Act, the RTAG is to advise the Commission about matters relating to the road transport industry, including:
 - a. making and varying of modern awards that relate to the road transport industry
 - b. making and varying of road transport minimum standards orders (**RTMSOs**) and road transport guidelines
 - c. making and varying of road transport contractual chain orders (**RTCCOs**) and road transport contractual chain guidelines
 - d. prioritisation by the Commission of matters relating to the road transport industry, and
 - e. such other matters as prescribed by regulation.
7. The RTAG and any subcommittees it forms are not decision-making bodies.

Participation of RTAG members

8. RTAG members will make themselves available to attend meetings of the RTAG and any subcommittees of which they are the chair.
9. A member of the RTAG who cannot fulfil their role for any reason (such as temporary illness or absence) must notify the RTAG chair of their absence as soon as possible.

10. The RTAG can continue to meet, prepare written advice, and submit advice to the Commission in the absence of a member of the RTAG.

RTAG advice to the Commission

11. The RTAG will use its best endeavours to present a consensus position when providing advice to the Commission.
12. Unless the President of the Commission directs the RTAG to consult with and provide advice in relation to a defined sector or group of the road transport industry, the RTAG will consult with a broad and representative cross-section of the road transport industry before providing advice to the Commission. This includes consultation through subcommittees (see paragraph 17).
13. The RTAG will submit its advice to the Commission within any timeframes specified by the Commission in its requests for advice.
14. Advice from the RTAG to the Commission will:
 - a. Clearly set out the views of the RTAG and the underlying reasoning, including any research or evidence relied upon and how advice from subcommittee(s) has been incorporated.
 - b. Unless otherwise stated, consider and reflect the views of a broad and representative cross-section- of the road transport industry, including owner drivers where relevant. Where it only represents the views of a particular sector or group of the road transport industry, the advice will clearly identify the relevant sector or group.
 - c. Clearly and accurately present the differing viewpoints where RTAG members cannot reach consensus.
 - d. Note any absences of an RTAG member who has been unable to fulfil their role for any reason during the preparation of the advice (see paragraphs 8 to 10).
 - e. Where relevant, note if the advice is submitted without the endorsement or agreement of a member of the RTAG.

Subcommittees

15. Section 40G of the Act provides a high-level- framework for the operation of RTAG subcommittees.
16. The RTAG will consult broadly, including by establishing subcommittees to advise it in relation to matters relevant to the performance of its functions. Subcommittee members can be industry participants who are not RTAG members.
17. The RTAG must consult any relevant subcommittee(s) before advising the Commission about a matter.
18. Any subcommittee formed by the RTAG must be chaired by a member of the RTAG who is appointed by the Minister under s. 40F of the Act.

19. The RTAG must form a subcommittee of which a majority of members are owner drivers or representatives of owner drivers (**owner driver subcommittee**) if:
 - a. a proposed RTMSO or RTCCO will cover owner drivers, or
 - b. the Commission proposes to perform a function or exercise a power in relation to a RTMSO or RTCCO that has, or may have, an effect upon owner drivers that is more than minor or technical.

Creation and operation of subcommittees

20. The RTAG has broad discretion about the operation of its subcommittees. This includes the number of subcommittees formed from time to time, how many persons or organisations are invited to participate in a subcommittee, who is appointed to a subcommittee, the scope of matters to be considered by a subcommittee, and whether the subcommittee is ongoing (**standing**) or only established to provide advice about a discrete matter or issue.
21. Members of the RTAG will exercise their discretion with respect to the creation of subcommittees to ensure that an inclusive and broadly representative approach is taken to determining the membership of any subcommittee.
22. RTAG's subcommittees will operate in accordance with Guiding Principles directed to ensuring transparency, accountability, and opportunity for affected entities to be consulted about, and have input to, any advice provided by the RTAG to the President of the Commission. The role of the RTAG member chairing a subcommittee includes ensuring that the subcommittee operates in accordance with the Guiding Principles. The Guiding Principles are set out at **Attachment A**.
23. Meetings and discussions of each subcommittee will be facilitated by a Member of the Fair Work Commission who is also a member of the Consultation Expert Panel established by the President of the Commission.
24. Apart from the owner driver subcommittee formed as required by s. 40G(3) of the Act, the RTAG will decide when it forms a subcommittee, and for what purpose. The RTAG may create a subcommittee:
 - a. For a specified purpose, such as to provide advice about a particular matter or matters before the Commission or a specified issue. Once the specified purpose is met, the subcommittee will dissolve unless the RTAG advises otherwise.
 - b. As a standing subcommittee. The RTAG will advise a subcommittee if it is a standing subcommittee. A standing subcommittee continues to exist until dissolved by the RTAG.
25. The RTAG will ensure that subcommittees are comprised of representatives of regulated road transport contractors and road transport businesses or where the President of the Commission directs that the matter relates to the road transport industry, relevant stakeholders including representatives of affected entities.
26. The subcommittee chair will convene a meeting as soon as reasonably practicable after a subcommittee is formed.

27. When it first seeks advice from a subcommittee, the RTAG (usually through the subcommittee chair) will provide a written scope for the advice it is seeking in relation to the performance of RTAG's functions, and the timeframe for providing such advice. The RTAG can revise the scope of the advice it is seeking and timeframes for its provision.
28. The RTAG will provide a reasonable period for a subcommittee to consult, conduct research, and prepare written advice.
29. The subcommittee chair will ensure that a subcommittee assists the RTAG in performing its functions under the Act, including by convening and chairing subcommittee meetings as necessary to support and provide advice to the RTAG.
30. The RTAG Chair will coordinate the preparation and provision of advice from subcommittees to the RTAG and take such other steps as are necessary to support the RTAG as requested.
31. A subcommittee will provide its advice to the RTAG in writing within the timeframes specified by the RTAG:
 - a. The advice will clearly set out the subcommittee's views and the underlying reasoning, including any research or evidence relied upon.
 - b. If subcommittee members could not reach consensus on the advice, the report will clearly present differing views.

Role of the RTAG chair

32. The RTAG chair will:
 - a. Convene RTAG meetings.
 - b. Chair RTAG meetings, with the aim of ensuring each member has an opportunity to be heard.
 - c. Where necessary, request an extension of time from the Commission for the provision of advice by the RTAG.
 - d. Ensure that any advice that the members of the RTAG consider appropriate to provide to the Commission, after consultation with any relevant subcommittees, is provided to the President of the Commission in writing.
 - e. Coordinate the preparation and provision of advice from subcommittees to RTAG in a form where it can be provided to the President of the Commission and/or posted on the RTAG's page on the Commission's website.
 - f. Where the RTAG provides advice to the Commission, coordinate preparation of the advice and submit the final advice to the Commission.
 - g. Take other steps as needed to facilitate the timely and effective functioning of the RTAG and its subcommittees.

RTAG meetings

33. The RTAG will meet as necessary to carry out its functions under the Act. A member of the RTAG can request a meeting by writing to the chair.
34. RTAG meetings will usually be held online.
35. The RTAG chair will send meeting invitations (usually through MS Teams), preferably at least one week before the meeting. The invitation will generally include a meeting agenda.
36. Commission staff will attend RTAG meetings to create a meeting record, under the direction of the RTAG chair.

Publication of information on the Commission website

37. The Commission has created a [dedicated RTAG page](#) on its website for publication of information about the RTAG and its subcommittees. The Chair of the RTAG will ensure that information is provided to the Commission to enable publication of:
 - a. information about members of the RTAG and any subcommittees that exist from time to time
 - b. records of each RTAG meeting
 - c. records of issues deliberated by subcommittees and outcomes of deliberations whether consensus positions or indications of the views of subcommittee members where consensus is not achieved, and
 - d. other relevant matters.

Communications

38. RTAG members will subscribe to the Commission's Regulated Worker updates through the [Commission website](http://fwc.gov.au/subscriptions) (fwc.gov.au/subscriptions) to receive timely and comprehensive updates from the Commission in relation to matters relevant to the RTAG.
39. RTAG members and subcommittee members may contact the RTAG chair in the first instance if they have any requests or require any information about operation of the RTAG. The chair can be contacted at chambers.asbury.vp@fwc.gov.au.

Attachment A

Guiding Principles for Subcommittees

1. The Road Transport Advisory Group (RTAG) has established subcommittees under s. 40G of the Fair Work Act 2009 (the Act). Their purpose is to assist the RTAG in consulting broadly and providing advice to the President of the Fair Work Commission (Commission) about applications for orders covering regulated workers or businesses in, or relating to, the road transport industry, or other matters in or related to the road transport industry, and about priorities for the work of the Commission concerning those applications.
2. Generally, the RTAG will form a subcommittee to examine each application referred to it, although on some occasions a single subcommittee may consider two or more separate but related applications, or applications where there are common issues for deliberation.
3. The RTAG intends that the membership of its subcommittees will be inclusive and broadly representative of the persons and organisations which may be affected by the orders being sought.
4. Subcommittees of the RTAG may also establish working groups to examine particular issues relevant to one application or which are common across a number of applications. Subcommittee participants may invite subject matter experts from their own or other organisations to participate in working groups. Members of working groups are not required to be subcommittee participants.
5. Subcommittees enable the RTAG to consult with affected persons and organisations so that they provide informed and relevant advice to the Commission about those applications, consistent with the views of affected persons and organisations.
6. Subcommittees will not make decisions about substantive matters but will consider each application and attempt to identify areas where consensus may be reached.
7. As required by the Act, each subcommittee will be chaired by an RTAG member appointed by the Minister for Employment and Workplace Relations under s. 40F of the Act.
8. A Member of the Fair Work Commission who is on the Expert Panel for Consultation constituted by the President of the Commission in relation to applications, will attend each subcommittee meeting and will act in the role of facilitator.
9. RTAG members who chair subcommittees will comply with all requests by the facilitator of a subcommittee meeting, including absencing themselves from meetings at the request of the facilitator during discussions between the facilitator and participants who have requested that such discussions be conducted in the absence of other parties or the Chair.
10. Records of matters discussed by subcommittees and the outcomes of those discussions, where applicable, will be maintained and will be posted on the [RTAG page](#) of the Commission's website.
11. Where consensus cannot be reached, the subcommittee Chair, with the assistance of the facilitator, will ensure that the views of all subcommittee participants are reflected in subcommittee records.

12. All discussions of subcommittees will be on a 'without prejudice' basis. Participants have the right to reserve their position on various matters discussed, subject to agreement on an overall package on particular matters. Where a consensus position is reached on a particular matter, subcommittee participants may agree to publish that position.
13. Subcommittees will provide advice to the RTAG in writing and the advice will:
 - a. Clearly set out the subcommittee's views and the underlying reasoning, including any research or evidence relied upon, and
 - b. If subcommittee participants could not reach consensus on the advice, clearly present competing views.
14. Subcommittee deliberations may be conducted during the same period as other consultative processes undertaken by the Commission.

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