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**Subject:** MS2024/4 - Application for a road transport contractual chain order

Dear Regulated Worker Standards team,

In accordance with direction [15](1) of the directions issued on 23 December 2025, please see attached the draft contractual chain order which the TWU intends to pursue in the matter MS2024/4.

**Kind regards,**

**Grant Ferreira**

Legal Officer

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BEFORE THE FAIR WORK COMMISSION

Matter Number: MS2024/4

Application for a road transport contractual chain order

**Draft Contractual Chain Order – Transport Workers’ Union of Australia**

**Draft developed through Road Transport Advisory Group process**

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**A. Definitions**

1. In this road transport contractual chain order, unless the contrary intention appears, the following words and phrases have the following meanings:

**Act** – means the *Fair Work Act 2009* (Cth);

**Car carrying** – means the distribution and/or relocation by road of new or used vehicles, where the vehicle itself is required to be driven from one location to another for the purposes of delivery and/or relocation of the vehicle

**Contractual chain** – means the road transport contractual chains covered by this order;

**General road transport** – means the part of the road transport industry involving the transport by road of goods, wares, merchandise, material or anything whatsoever, whether in its raw state or natural state, wholly or partly manufactured state or of a solid or liquid or gaseous nature or otherwise;

**Invoice** – a document issued by a regulated road transport business or regulated road transport contractor detailing the road transport services provided, the price of those services and the total amount due and payable for those services.

**Meat transport** – means the transport by road of meat from abattoirs, slaughterhouses, and wholesale meat depots;

**Milk and cream transport** – means the transport on public roads of milk and cream in bulk, and the transport, vending and distribution of milk, cream, butter, cheese and their derivatives (including fruit juices, yoghurt and custard);

**Order** – means this road transport contractual chain order;

**Primary party** – means a person who is party to the first contract or arrangement in the road transport contractual chains the subject of this order. Primary parties include persons

referred to in the road transport industry as “clients” in a road transport contractual chain and are the persons on whose behalf work is ultimately being performed;

**Rate review** – has the meaning set out in clause 18;

**Recipient Created Tax Invoice (RCTI)** – an Invoice created by the primary party or secondary party in a road transport contractual chain detailing road transport services, the price of those services and the total amount due and payable under the document.

**Regulated road transport contractor** – has the meaning set out in a 15Q to the Ac;

**Road transport business** – has the meaning set out in s 15R to the Act;

**Road transport contractual chain** – has the meaning set out in s 15RA(1) to the Act;

**Oil and gas transport** – means the transport by road of crude oil or gas condensate;

**Quarried materials transport** – means the transport by road of quarried materials;

**Secondary party** – means a person who is a party to a subsequent contract or arrangement in the road transport contractual chain orders, being a contract or arrangement under which work is performed for the secondary party by a regulated road transport contractor in the contractual chains the subject of this order;

**Waste transport** – means the transportation of any waste material whatsoever, whether solid or liquid, organic, biological, medical, raw or natural, wholly or partly manufactured, decomposed or partly decomposed or in any other state or form and including all domestic, trade and industrial waste;

**Work** – means the work covered by this order.

## **B. Coverage**

2. This order covers work in the following sectors of the road transport industry:
  - (a) car carrying;
  - (b) general road transport;
  - (c) meat transport;
  - (d) milk and cream transport;
  - (e) oil and gas transport;
  - (f) quarried materials transport; and
  - (g) waste transport.
3. This order covers the following persons in contractual chains involving the performance of work detailed in (2) above:
  - (a) primary parties;
  - (b) secondary parties;

- (c) road transport businesses; and
  - (d) regulated road transport contractors.
4. This order does not cover work described as follows:
- (a) cash in transit;
  - (b) passenger vehicle transportation; and
  - (c) work performed exclusively on private roads.

**C. Payment time**

***Obligations on primary parties in relation to a secondary party's contracts in the chain***

5. Primary parties who enter into contracts or arrangements with secondary parties to perform work the subject of this order must take all reasonable steps to ensure that:
- (a) it is a term of any contract or arrangement between a secondary party and any road transport business in contractual chains that the road transport business be paid any undisputed amount for the performance of transport services set out in an Invoice or RCTI within 21 days of the issue of the Invoice or RCTI;
  - (b) it is a term of any contract or arrangement between a secondary party and regulated road transport contractor that the regulated transport contractor be paid any undisputed amount for the performance of road transport services set out in an Invoice or RCTI within 21 days of the issue of the Invoice or RCTI.
6. Primary parties who enter into contracts or arrangements with secondary parties to perform work the subject of this order must take all reasonable steps to ensure that:
- (a) it is a term of any contract or arrangement between a secondary party and any road transport business in the contractual chain that if the secondary party disputes amounts payable to the road transport business for the performance of transport services set out in an Invoice or RCTI, it must notify the road transport business in writing within 7 days of the issue of the Invoice of the amount in dispute and reasons for dispute; and
  - (b) it is a term of any contract or arrangement between a secondary party and regulated road transport contractor that if the secondary party disputes amounts payable to the regulated road transport contractor for the performance of transport services set out in an Invoice or RCTI, it must notify the regulated road transport

contractor in writing within 7 days of the issue of the Invoice of the amount in dispute and reasons for dispute.

7. Clauses 5-6 apply notwithstanding any term in a services contract.

***Obligations on primary parties in relation to secondary parties***

8. Primary parties who engage secondary parties to perform work the subject of this order must:
  - (a) pay the secondary party engaged by them amounts for the performance of transport services set out in an Invoice issued by the secondary party in accordance with clause 8, other than amounts disputed in accordance with clause (7)(b) within 21 days of the issue of the Invoice or RCTI;
  - (b) if a primary party disputes any amounts payable to a secondary party for the performance of transport services set out in an Invoice or RCTI issued in accordance with clause 9, they must notify the secondary party in writing within 7 days of the issue of the Invoice or the RCTI of the amount in dispute and reasons for dispute.
9. An Invoice or RCTI issued for the purposes of this clause is one issued by a secondary part within 7 days of the performance of work the subject of the Invoice or RCTI.
10. Clause 8 applies notwithstanding any term in a services contract.
11. Clause 8 does not affect any right which the primary party may have under a contract with the secondary party, including to make claims which arise in relation to amounts paid to the secondary party that come to the primary party's attention after the 7 day period detailed in clause 12(b).

***Obligations on secondary parties in relation to regulated road transport contractors and business***

12. Secondary parties who engage road transport businesses or regulated road transport contractors to perform work the subject of this order must:
  - (a) pay the road transport business or regulated road transport contractors engaged by them amounts for the performance of transport services set out in an Invoice issued in accordance with clause 13 or an RCTI, other than amounts disputed in accordance with 12(b) within 21 days of the issue of the Invoice or RCTI;

- (b) if they dispute amounts payable to a road transport business or regulated road transport contractor for the performance of transport services set out in an Invoice or RCTI issued in accordance with clause 13, must notify the road transport business or regulated road transport contractor in writing within 7 days of the issue of the Invoice of the amount in dispute and reasons for dispute.
13. An Invoice for the purposes of this clause is one issued by a road transport businesses or regulated road transport contractor within 7 days of the performance of work the subject of the Invoice.
14. Clause 12 applies notwithstanding any term in a services contract.

#### **D. Rate reviews**

##### ***Obligations on primary parties***

15. Primary parties who enter into contracts or arrangements with secondary parties to perform work the subject of this order must take reasonable steps to ensure that it is a term of any contract or arrangement between a secondary party and any road transport business or road transport contractor in the contractual chain that the secondary party conduct a rate review at least yearly and in good faith with the object of ensuring that the road transport business is paid rates that take into account costs incurred by the road transport business and/or regulated road transport contractor.
16. Secondary parties who engage road transport businesses or regulated road transport contractors to perform work the subject of this order must conduct a rate review at least yearly and in good faith with the object of ensuring that the regulated road transport business and/or regulated road transport contractor is paid rates that take into account costs incurred by the road transport business and/or regulated road transport contractor.
17. Clauses 15-16 apply notwithstanding any term in a services contract.
18. A **rate review** means a real review conducted in good faith of the rates payable to road transport businesses and/or regulated road transport contractors in relation to the performance of work with preconditions or prerequisites that has regard to costs incurred by the road transport business and/or regulated road transport contractor and may include the following:
- (a) fuel;
  - (b) repairs and maintenance;
  - (c) insurances;

- (d) administrative costs;
- (e) capital costs, including depreciation;
- (f) return on investment;
- (g) tyres;
- (h) labour costs.

19. The operation of clauses 15-18 above will not impact or change any current or existing term in a services contract or arrangement that address fluctuations in fuel costs on a more frequent basis including fuel levies or any related arrangement.

20. **Dispute settlement**

21. This clause sets out the procedures to be followed in relation to disputes arising about any matters under the order.

22. The parties to the dispute must first try to resolve the dispute as between themselves.

23. If the dispute is unable to be resolved between the parties, a party to the dispute may refer the dispute to the Fair Work Commission.

24. The Fair Work Commission may use any method of dispute resolution permitted by the Act that it considers appropriate to resolve the dispute, including mediation, conciliation, expressing an opinion or making a recommendation.

25. The Fair Work Commission may with the consent of the parties arbitrate the dispute.

26. A road transport business or regulated road transport contractor may be represented by an industrial association at any stage of the dispute settlement process including in proceedings before the Fair Work Commission.