

# Road Transport Advisory Group and its subcommittees

Terms of Reference

September 2024

**Change/update history**

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## Operational context

1. From 26 August 2024, the Fair Work Commission (**FWC**) 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 FWC in carrying out its functions relating to the road transport industry by advising the FWC 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 FWC President may appoint a member of the FWC's Expert Panel for the road transport industry to chair the RTAG under s.40F(6) of the Act.
5. The RTAG is not part of the FWC. Any members of the RTAG, and its subcommittees, are not FWC Members under s.626 of the Act.

## Role of the RTAG

6. Under s.40E(2) of the Act, the RTAG advises the FWC 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 FWC of matters relating to the road transport industry, and
  - e. such other matters as prescribed by regulation.
7. The RTAG is not a decision-making body.

## Participation of RTAG members

8. RTAG members will make themselves available to attend meetings of the RTAG and any subcommittees of which they are a member or 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 FWC in the absence of a member of the RTAG.

## RTAG advice to the FWC

11. The RTAG will use its best endeavours to present a consensus position when providing advice to the FWC.
12. Unless the FWC seeks advice from 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 FWC. This includes consulting subcommittees (see paragraph 17).
13. The RTAG will submit its advice to the FWC within timeframes specified by the FWC in its request for advice.
14. Advice from the RTAG to the FWC will:
  - a. Clearly set out the views of the RTAG and the underlying reasoning, including any research or evidence relied upon and how any 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 it 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 can 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 FWC about a matter (see s.40E(5) of the Act).
18. A member of the RTAG must chair a subcommittee.
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 FWC 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 members are appointed to each subcommittee, who is appointed, 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. Guiding principles for the operation of RTAG subcommittees are:
  - a. Apart from the owner driver subcommittee, the RTAG will decide when it forms a subcommittee, and for what purpose. For example, the RTAG may create a subcommittee:
    - for a specified purpose, such as to provide advice about a matter before the FWC or a specified issue. Once the specified purpose is met, the subcommittee will dissolve unless RTAG advises otherwise.
    - 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.
  - b. RTAG will establish guiding principles for subcommittees once established, if necessary.
  - c. Provided it meets the requirements of s.40G(3) of the Act, the RTAG determines the membership of subcommittees from time to time, including which RTAG member will chair the subcommittee.
  - d. The RTAG will ensure that subcommittees are comprised of representatives of regulated road transport contractors and road transport businesses or other relevant stakeholders as appropriate.
  - e. The subcommittee chair will convene a subcommittee as soon as reasonably practicable after it is formed.
  - f. When it first seeks advice from a subcommittee, the RTAG (usually through the subcommittee chair) will provide a written scope about 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.
  - g. The RTAG will provide a reasonable period for a subcommittee to consult, conduct research, and prepare written advice.
  - h. 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.
  - i. The subcommittee chair will co-ordinate preparation and provision of advice to the RTAG and take such other steps as are necessary to support the RTAG as requested.

- j. A subcommittee will provide its advice to the RTAG in writing within the timeframes specified by the RTAG:
  - The advice will clearly set out the subcommittee's views and the underlying reasoning, including any research or evidence relied upon.
  - If subcommittee members could not reach consensus on the advice, the report will clearly present differing views.

### **Role of the RTAG chair**

22. 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 FWC for the provision of advice by the RTAG.
  - d. Ensure that any advice that the RTAG considers appropriate to provide to the FWC, after consultation with any relevant subcommittees, is provided to the President of the FWC in writing.
  - e. Where the RTAG provides advice to the FWC, co-ordinate preparation of the advice and submit the final advice to the FWC.
  - f. Take other steps as needed to facilitate the timely and effective functioning of the RTAG and its subcommittees.

### **RTAG meetings**

23. 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.
24. RTAG meetings will usually be held online.
25. 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.
26. FWC staff will attend RTAG meetings to create a meeting record, under the direction of the RTAG chair.

### **Publication of information on the FWC website**

27. The FWC has created a [dedicated RTAG page](#) on its website for publication of information about the RTAG and its subcommittees:
  - a. The FWC will publish information about members of the RTAG and any subcommittees that exist from time to time.
  - b. The FWC will publish a record of each RTAG meeting.

28. From time to time, the FWC creates webpages about matters that are before the FWC. The FWC will publish on the relevant webpage any request to the RTAG for advice and any advice that the RTAG provides to the FWC in relation to each matter.

### **Communications**

29. RTAG members are encouraged to subscribe to the FWC's Regulated Worker updates through the [FWC website](http://fwc.gov.au/subscriptions) (fwc.gov.au/subscriptions) as the fastest and most complete way of receiving comprehensive updates from the FWC.
30. RTAG members should 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](mailto:chambers.asbury.vp@fwc.gov.au).