

Notes from online meeting with DEWR, 30/01/26, in follow up to email exchanges on sham contracting and business closures in the road freight industry

Attendees: DEWR:

- Employee-like team (responsible for closing loopholes legislation): s22(1)(a)(ii)
- Workplace exploitation and compliance team (including FWO engagement on sham contracting): s22(1)(a)(ii)

DITRDCA: s22(1)(a)(ii) (Heavy Vehicle Policy team).

Who attended the roundtable on 5 November? The ATO and Department of Home Affairs attended the entire (day-long?) session, as did s22(1)(a)(ii) of DEWR. Various Ministers popped in and out during the day.

What was the focus of the discussion on the day? Industry attendees were calling on the ATO for better enforcement of the laws, with focus on its [Shadow Economy Compliance Program](#). Sham contracting was described as the tip of the iceberg in the road freight industry, in that it is likely a symptom of larger and deeper underlying pressures (competitive pressures, commercial viability, compliance with regulations).

The ATO asked for a tighter definition of 'employment', while industry attendees wanted more done on the definition of sham contracting. DEWR officers feel they have already done as much as they reasonably can on the latter¹ and pointed to the broader statutory review of the Closing Loopholes reforms that is happening in 2026.

The communique issued after the 5 November roundtable perhaps overstates the government actions that were agreed. Finding real instances of sham contracting to pass on to investigators would be very helpful (an advertisement is not sufficient). Heavy vehicle drivers are not necessarily unhappy with their arrangements, and a driver being paid via an ABN is not necessarily a sham contractor if they don't own the truck they drive.

There is very limited scope to intervene in matters before the Fair Work Commission, but the TWU has standing to pursue actions under the Fair Work Act, via the FWO. Minister Rishworth meets with the FWO fairly regularly.

What other industries might be experiencing sham contracting? Cleaning and construction industries are two.

DITRDCA promised to share the proposed scope of an 'analysis of the state of the road freight industry' with DEWR. This analysis could provide an evidence base to inform consideration of actions in response to sham contracting and business closures.

¹ The *Fair Work Amendment (Closing Loopholes No. 2) Act 2024* (Closing Loopholes reforms) amended the defence to sham contracting from 'recklessness' to a more objective test of 'reasonableness'. Employers who misclassify workers as independent contractors must now show they reasonably believed the classification was correct. Ignorance or an unreasonable mistake no longer provides a defence.

From: s22(1)(a)(ii)
 To: s22(1)(a)(ii); s22(1)(a)(ii); s22(1)(a)(ii)
 Cc: s22(1)(a)(ii); Todd, Sally; s22(1)(a)(ii); s22(1)(a)(ii); s22(1)(a)(ii); s22(1)(a)(ii); s22(1)(a)(ii)
 Subject: Re: Road transport pressures and sham contracting [SEC=OFFICIAL]
 Date: Thursday, 5 February 2026 8:11:09 AM
 Attachments: image001.png

OFFICIAL

Hi s22(1)(a)(ii)

A big thanks for coming back so quickly yesterday. The draft response is with our MO - we will let you know if we hear anything further.

s22(1)(a)(ii)

Cheers

s22(1)(a)

OFFICIAL

From: s22(1)(a)(ii) @dewr.gov.au>
 Sent: Wednesday, 4 February 2026 17:35
 To: s22(1)(a)(ii) @infrastructure.gov.au>; s22(1)(a)(ii) @infrastructure.gov.au>
 Cc: s22(1)(a)(ii) @infrastructure.gov.au>; s22(1)(a)(ii) @infrastructure.gov.au>; Todd, Sally <Sally.Todd@infrastructure.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>
 Subject: RE: Road transport pressures and sham contracting [SEC=OFFICIAL]

Thanks s22(1)(a)(ii),

I've tracked in some revisions to your correspondence to refer to the closing loopholes reforms. If you want to call out the statutory review, I've included a paragraph below that could be added after the tracked changes to the draft response.

A statutory review of the Closing Loopholes reforms is currently underway. Feedback on the sham contracting reforms, road transport minimum standards jurisdiction and new definition of employment should be raised through that avenue. Further information is available at www.dewr.gov.au/workplace-relations-australia/review-closing-loopholes-acts.

I've also attached:

- s22(1)(a)(ii)
- Our back pocket estimates TPs on sham contracting in the road transport sector.

More broadly, we are mindful that a lot of stakeholders are calling for stronger regulatory action in and there would be value in bringing in the Treasurer/Assistant Treasurer into any MO-level discussions to consider whether there is anything more the ATO's Shadow Economy Taskforce could be doing.

Cheers,

s22(1)(a)(ii)

s22(1)(a)(ii)
 Director

Gig & Contractor Policy | Strategy and Protections Branch
 Employment Conditions Division | Workplace Relations Group
 Australian Government Department of Employment and Workplace Relations
 Phone s22(1)(a)(ii) | Mobile s22(1)(a)(ii)
dewr.gov.au

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From: s22(1)(a)(ii) @infrastructure.gov.au>
 Sent: Wednesday, 4 February 2026 3:01 PM
 To: s22(1)(a)(ii) @infrastructure.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>

s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>
 Cc: s22(1)(a)(ii) @infrastructure.gov.au>; s22(1)(a)(ii) @infrastructure.gov.au>; Todd, Sally
 <Sally.Todd@infrastructure.gov.au>
Subject: Re: Road transport pressures and sham contracting [SEC=OFFICIAL]

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Good afternoon DEWR colleagues,

Thank you again for agreeing to send over some standard words on sham contracting today!

I'm getting in touch about an urgent request we have received from our office, requesting some words from your department, as lead agency, on sham contracting for inclusion in a letter back to Senator McKenzie.

The current wording that we have, highlighted in the attached, was provided last year to support a briefing to our minister.

Please advise if this language is suitable to be included. Alternatively, if there's anything you could provide off the shelf that we could include, that would be fantastic.

I have cc'ed in my Assistant Secretary, Sally Todd, who is also happy to discuss this with s22(1)(a)(ii) or others as needed. s22(1)(a)(ii)

She suggested that this may be better settled between the ministerial offices. We are happy to help coordinate this if so.

We are hoping to send the letter back up to the office this afternoon if possible, though we understand this is a quick turnaround!

Happy to discuss any other approach.

Thank you,
 s22(1)(a)(ii)

s22(1)(a)(ii) (she/her)

Senior Policy Officer • Road User Charging Task Force • Surface Transport Emissions and Policy Division

s22(1)(a)(ii) @infrastructure.gov.au

P s22(1)(a)(ii)

I work on Ngannawal country

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From: s22(1)(a)(ii) @infrastructure.gov.au>
Sent: 30 January 2026 1:38 PM
To: s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au> s22(1)(a)(ii) @dewr.gov.au>;
 s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>
Cc: s22(1)(a)(ii) @infrastructure.gov.au>; s22(1)(a)(ii) @infrastructure.gov.au>; s22(1)(a)(ii) @infrastructure.gov.au>
Subject: Road transport pressures and sham contracting [SEC=OFFICIAL]

OFFICIAL

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Hi DEWR colleagues,

Thanks again for your time at our meeting this morning, and for sharing useful information following the 5 November roundtable.

s22(1)(a)(ii)

Sorry, I don't have an email address for s22(1)(a)(ii) if someone could please pass this email on to him.

Thanks,

s22(1)(a)(ii) (he/him)

Heavy Vehicle Policy • Surface Transport Emissions and Policy Division

s22(1)(a)(ii) @infrastructure.gov.au

P s22(1)(a)(ii) • M s22(1)(a)(ii)

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Sent: Thursday, 22 January 2026 11:14 AM
To: s22(1)(a)(ii) @infrastructure.gov.au>
Cc: s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @infrastructure.gov.au>
Subject: RE: Input request re road transport and sham contracting [SEC=OFFICIAL]

Hi s22(1)(a)(ii),

Happy New Year! Thanks for getting in touch and for sending us a copy of your briefing note.

It would be great if we could meet next week to discuss this – we can do between 11:30 – 3 on 29/1 or anytime on 30/1. Could you please invite s22(1)(a)(ii) and myself from DEWR (all cc'd).

Many thanks

s22(1)(a)(ii)

s22(1)(a)(ii)

Assistant Director
Gig and Contractor Policy | Strategy and Protections Branch
Employment Conditions Division
Australian Government Department of Employment and Workplace Relations

s22(1)(a)(ii)
s22(1)(a)(ii) @dewr.gov.au

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Sent: Wednesday, 21 January 2026 12:02 PM
To: s22(1)(a)(ii) @dewr.gov.au>
Cc: s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii)

s22(1)(a)(ii) @dewr.gov.au>;s22(1)(a)(ii) @infrastructure.gov.au>
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OFFICIAL

Hi s22(1)(a)(ii),

Happy 'new' year!

Further to the help you and DEWR colleagues provided me in December, please find attached the briefing note (on sham contracting and road transport business closures) we provided to our Minister's office. You will see the information DEWR provided was central and very helpful.

s47C

s22(1)(a)(ii)

Thanks,

s22(1)(a)(ii) (he/him)

Heavy Vehicle Reform • Surface Transport Emissions and Policy Division

s22(1)(a)(ii) @infrastructure.gov.au

P s22(1)(a)(ii) • M s22(1)(a)(ii)

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From: s22(1)(a)(ii) @dewr.gov.au>

Sent: Monday, 15 December 2025 3:08 PM

To: s22(1)(a)(ii) @infrastructure.gov.au>

Cc: s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii)

@dewr.gov.au>; s22(1)(a)(ii) @infrastructure.gov.au>

Subject: RE: Input request re road transport and sham contracting [SEC=OFFICIAL]

Hi s22(1)(a)(ii),

Thanks for your call earlier.

I just wanted to confirm that we haven't received advice from our MO or SES representative who attended the roundtable to indicate that there are actions for DEWR to progress as an outcome. I've **attached** the background information that our team provided you in October on existing workplace relations measures which might go some way in addressing these issues. This information is largely still current and reflects the relevant workplace relations measures relating to this issue.

If your Minister is requesting advice on further actions in the WR portfolio, it would be good to set up a time for your area, our sham contracting colleagues and us to meet soon to get a bit more clarity on this request. If possible, it would also be great if you could share the letter you mentioned from Senators Sterle and McKenzie.

Many thanks

s22(1)(a)(ii)

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s22(1)(a)(ii)

Assistant Director
Gig and Contractor Policy | Strategy and Protections Branch
Employment Conditions Division
Australian Government Department of Employment and Workplace Relations

s22(1)(a)(ii)
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Sent: Monday, 15 December 2025 2:30 PM
To: s22(1)(a)(ii) @dewr.gov.au>
Cc: s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>
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Hi s22(1)(a)(ii),

I am hoping you or one of the team might be able to give me a call this afternoon to discuss below.

Thanks,

s22(1)(a)(ii) (he/him)
Heavy Vehicle Reform • Surface Transport Emissions and Policy Division
s22(1)(a)(ii) @infrastructure.gov.au
P s22(1)(a)(ii) • M s22(1)(a)(ii)
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From: s22(1)(a)(ii) @dewr.gov.au>
Sent: Friday, 10 October 2025 12:06 PM
To: s22(1)(a)(ii) @infrastructure.gov.au>
Cc: s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>
Subject: RE: Input request re road transport and sham contracting [SEC=OFFICIAL]

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Hi s22(1)(a)(ii)

Thanks for getting in touch. The employee-like inbox is still the right place for contractor inquiries – otherwise you're welcome to contact me directly or our director s22(1)(a)(ii) (cc'd).

We're happy to provide some input on new minimum standards for the road transport industry for this brief. We'll also ask our colleagues in workplace compliance for some input on sham contracting. Grateful if you can keep us on the loop with any further context you receive on the meeting.

Additionally, you may already have come across this, but we were passed on the **attached** letter from Senator Glen Sterle to Rob Heferen of

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the ATO that raises similar issues and calls for a taskforce to be established into the issue. If you haven't already, it could be worth getting in touch with the ATO as well as this may come up at the roundtable.

Happy to discuss.

Many thanks

s22(1)(a)(ii)

s22(1)(a)(ii)

Assistant Director
Gig and Contractor Policy | Strategy and Protections Branch
Employment Conditions Division
Australian Government Department of Employment and Workplace Relations

s22(1)(a)(ii)

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From: s22(1)(a)(ii) s22(1)(a)(ii) @infrastructure.gov.au>
Sent: Friday, 10 October 2025 9:48 AM
To: s22(1)(a)(ii) @dewr.gov.au>
Subject: Input request re road transport and sham contracting [SEC=OFFICIAL]

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Hi DEWR colleagues,

I am hoping this is still the right email address for inquiries on contractors, gig workers and employment-like workplace arrangements.

Minister Catherine King has accepted an invitation to attend a 'Road Transport Industry Roundtable' on Wednesday 5 November at Parliament House. Her office has requested the meeting brief cover: *'the shadow economy as it relates to the road transport industry, the impacts that sham contracting are having on transport companies and owner-drivers, and to explore solutions that will help stop this activity as well as support the productivity of transport workers and companies.'*

Are you able to provide any input to me on those issues, given we don't have the function or expertise at this end to brief on them? I would need any input by 23 October please.

I am seeking to clarify who the organiser of this event is and what the agenda will be. For now the above is all I have. Happy to discuss if this is a difficult one for DEWR also to brief on.

Thanks,

s22(1)(a)(ii) (he/him)

Heavy Vehicle Reform • Surface Transport Emissions and Policy Division

s22(1)(a)(ii) @infrastructure.gov.au

Ps22(1)(a)(ii) • Ms22(1)(a)(ii)

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The Hon Catherine King MP

Minister for Infrastructure, Transport, Regional Development and Local Government
Member for Ballarat

Ref: MC25-022807

Senator the Hon Bridget McKenzie
Senator for Victoria
172 High Street
WODONGA VIC 3690

via: senator.mckenzie@aph.gov.au

Dear Senator McKenzie

Thank you for your correspondence of 12 December 2025 regarding Ron Crouch Transport and the heavy vehicle industry. I was distressed to hear of the demise of Ron Crouch Transport, after almost a half a century of service to the Australian economy.

Last year, as part of the Treasurer's Economic Reform Roundtable, transport industry leaders came together to discuss priority areas of improvement and to build consensus on ways to improve productivity, enhance economic resilience and improve safety outcomes in the sector. The roundtable was attended by industry leaders across the sector, unions and government.

Through the Infrastructure and Transport Ministers Meeting (ITMM) all governments are continuing to pursue productivity and safety reforms, improve access to reduce the regulatory burden and facilitate higher productivity vehicles. In addition, ITMM has agreed a refreshed National Freight and Supply Chain Strategy and released the National Action Plan, which addresses the recommendations of the 2023-24 Review.

The Australian Government is also supporting the heavy vehicle and trucking sector through sustained investment in road freight infrastructure that underpins productivity, safety and efficiency across the national network.

Through the over \$100 billion Infrastructure Investment Program, the Government is delivering upgrades to major freight corridors and nationally significant road projects that support trucking operations across metropolitan, regional and remote Australia.

As at the 2025-26 MYEFO, the Australian Government has 37 Corridor packages coordinating investment along freight-critical land transport routes, enabling upgrades to capacity, grade separation, safety and access to be delivered in a way that supports heavy vehicle movements over long distances. This approach targets systemic constraints impacting freight performance rather than isolated locations alone.

PO Box 6022 Parliament House, Canberra ACT 2600 | Tel: (02) 6277 7520

Within the 37 corridor packages, several large, nationally significant road corridors account for a substantial proportion of Commonwealth investment and deliver the greatest freight productivity and safety benefits due to their role in supporting high-volume, long-distance heavy vehicle movements.

Headline corridor packages include:

- **Bruce Highway Safety Package (QLD) – Australian Government Contribution (AG) \$8.6 b**
 - Supporting safety and operational improvements along the Bruce Highway between Brisbane and Cairns, including targeted safety upgrades, overtaking lanes, rest areas and network operations improvements.
- **Bruce Highway South (QLD) – AG \$5.6 b**
 - Delivering upgrades along the Bruce Highway corridor between Brisbane and south of Gladstone, including capacity, interchange and safety improvements.
- **Pacific Highway (NSW) – AG \$3.6 b**
 - Supporting major upgrades along the Pacific Highway corridor between Coffs Harbour and Newcastle.
- **Western Highway (VIC) – AG \$2.1 b**
 - Delivering staged upgrade works along the Western Highway corridor between the Western Ring Road and the Victorian–South Australian border.
- **M1 Pacific Motorway (QLD) – AG \$1.7 b**
 - Supporting upgrades along the M1 Pacific Motorway corridor between the M1/M3 merge and the New South Wales border.
- **Bruce Highway North (QLD) – AG \$1.7 b**
 - Supporting upgrades along the Bruce Highway corridor between Bowen and Cairns, including flood resilience, access and network improvement works.
- **Bruce Highway Central (QLD) – AG \$1.6 b**
 - Delivering coordinated upgrades along the Bruce Highway corridor between Gladstone and north of Bowen.
- **New England Highway (NSW) – AG \$1.2 b**
 - Supporting safety, capacity and freight-related upgrades between Tenterfield and Newcastle.
- **Newell Highway (NSW) – AG \$1.1 b**
 - Supporting upgrades along the Newell Highway corridor between Moree and West Wyalong, including heavy-duty pavement, overtaking lanes and flood mitigation.
- **Tanami Road (NT & WA) – AG 0.65 m**
 - Sealing the critical WA-NT link, addressing road network vulnerabilities while also improving the regional freight network to enable national, regional and international logistics and trade to take place.

In addition to the corridor packages, the Australian Government is investing in a range of nationally significant projects that support heavy vehicle movements across the national network.

Examples include:

- **North–South Corridor: Torrens to Darlington (SA) - AG \$7.7 b**
 - Improves long-distance freight efficiency with reduced travel times, higher capacity and safer heavy-vehicle movements.
- **North East Link (VIC) - AG \$5.0 b**
 - Provides faster, more reliable freight access across Melbourne and removes heavy vehicles from local roads.

- **Coomera Connector Stage 1 (QLD) - AG \$1.7 b**
 - Improves freight reliability by reducing congestion on the M1 and providing an alternate north-south heavy-vehicle route.
- **Camerons Lane Interchange (VIC) - AG \$900 m**
 - Supports access to the Beveridge Interstate Freight Terminal and improves freight connectivity to key logistics precincts.
- **High Productivity Vehicle Network (HPVN) Stage 1 (SA) - AG \$630 m**
 - Expands access for high-productivity freight vehicles and improves efficiency on major interstate freight routes.
- **Inland Freight Route Upgrades (QLD) - AG \$800 m**
 - Provides an alternative to the Bruce Highway, improving safety, reliability and connectivity for long-distance freight.
- **Mamre Road Stage 2 (NSW) - AG \$500 m**
 - Improves access and capacity for Western Sydney's major freight and logistics precincts.
- **Milton-Ulladulla Bypass (NSW) - AG \$752 m**
 - Improves Princes Highway freight reliability by removing 20 intersections and reducing delays through coastal town centres.
- **Elizabeth Drive – Priority Sections (NSW) – AG \$400 m**
 - Upgrading priority sections of Elizabeth Drive to support freight and commuter traffic in Western Sydney supporting the Western Sydney Airport and the Aerotropolis precinct.
- **Queensland Beef Corridors (QLD) – AG \$400 m**
 - Targeting upgrades to key roads necessary for transporting cattle, in turn improving the resilience of cattle supply chains in northern Australia.
- **Westport – Kwinana Freeway Upgrades (WA) – AG \$350 m**
 - Delivering upgrades to Kwinana Freeway to support the future operation of the new port (Westport), including safety and efficiency of the road network.
- **Nationwide Freight Highway Upgrade Program (SA) - AG \$295 m**
 - Delivering priority upgrades on South Australia's nationally significant freight routes to increase efficiency and safety.
- **Kuranda Range Road Upgrade (QLD) - AG \$210 m**
 - Improves travel times, safety and network reliability on a key freight route in Far North Queensland.
- **Central Arnhem Road Upgrade (NT) - AG \$180 m**
 - Improves all-weather reliability and access for freight servicing Nhulunbuy and surrounding industries.
- **Wheatbelt Secondary Freight Network (WA) - AG \$150 m**
 - Undertaking upgrades on priority routes and projects on the Wheatbelt Secondary Freight Network.

The government has committed to progressively double the Roads to Recovery program's funding to \$1 billion annually, to allow local governments to plan for the long-term maintenance and upgrade of their road network.

Additionally, the government is investing \$63 million in regional and rural Australia under the Safer Local Roads and Community Infrastructure Program. These improvements will help deliver significant benefits for road users by alleviating traffic congestion, reducing travel times and increasing road safety.

The government also unfroze the indexation of road maintenance funding at \$350 million, increasing the total budget funding to \$460 million in the 2024-25 financial year, with future indexation at 2.5%.

The government is aware of industry concerns related to sham contracting.

- The Fair Work Ombudsman (FWO) has filed 35 matters with the courts involving sham contracting (not exclusive to the road transport sector) and secured over \$8.97 million in penalties against contravening businesses.
- The Fair Work Commission (FWC) can set enforceable minimum standards for independent contractors, to help level the playing field between employees and contractors.
 - The FWC is currently considering (and consulting on) applications made by the Transport Workers' Union (TWU) for minimum standards for 'last-mile' parcel/goods delivery work, 30-day payment terms and compulsory contract rate reviews.
 - The FWC is being assisted in this work by a Road Transport Advisory Group, whose members include Peter Anderson of the Victorian Transport Association and Richard Olsen of the TWU.
- The Australian Taxation Office (ATO) has established a Shadow Economy Compliance Program to identify and respond to new and emerging 'shadow economy' risks. The ATO is working with industry groups to gather evidence of illegal activity and recommend prosecutions.

Thank you for taking the time to write to me on this matter.

Yours sincerely

Catherine King MP

/ / 2026

s47C

Released under the FOI Act 1982 by the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

Minister King meeting brief – Road Transport Industry Roundtable

Sham contracting

- Sham contracting occurs when an employer misrepresents an employment relationship as an independent contracting arrangement. The government recognises that sham contracting arrangements deny workers their lawful entitlements and these arrangements are prohibited under the *Fair Work Act 2009*.
- The *Fair Work Amendment (Closing Loopholes No. 2) Act 2024* (Closing Loopholes reforms) amended the defence to sham contracting from 'recklessness' to a more objective test of 'reasonableness'.
- Employers who misclassify workers as independent contractors must now show they reasonably believed the classification was correct. Ignorance or an unreasonable mistake no longer provides a defence.
- The Fair Work Ombudsman (FWO) is the independent statutory agency responsible for impartially enforcing and investigating breaches of Australia's workplace laws. The FWO has a range of educational and enforcement tools to promote and ensure compliance with workplace laws. The FWO's response to suspected contraventions is guided by its publicly available Compliance and Enforcement Policy, which sets out the factors it takes into account when considering an appropriate regulatory response.
- Since 2009 to 30 June 2025, the FWO has filed 35 matters with the courts involving sham contracting and secured over \$8.97 million in penalties against contravening businesses. Sham contracting disputes make up less than 1% of the disputes received by the FWO in 2024-25.

Protections for contractors in the road transport industry

- The Closing Loopholes reforms also empowered the Fair Work Commission (FWC) to set minimum standards to improve the safety, sustainability and viability of the road transport industry.
- The FWC can set enforceable minimum standards for independent contractors (regulated road transport contractors) and in road transport contractual chains. Subject to content rules, the FWC can determine which standards should apply, such as payment terms, deductions, insurance and cost recovery.
- The FWC is considering applications made by the Transport Workers' Union for the following road transport minimum standards or contractual chain standards:
 - road transport minimum standards for 'last-mile' parcel/goods delivery work (application made in August 2024)
 - road transport contractual chain standards, seeking 30-day payment terms, compulsory rate reviews and a prohibition on 'set-off' terms (application made in September 2024)
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 - The FWC is currently consulting on the applications in line procedural requirements in the Fair Work Act, which seek to ensure a gradual, consultative and evidence-based approach to standard-setting with industry views considered at each stage.

- The FWC also has the power to resolve disputes about unfair termination for eligible road transport contractors. If the FWC finds that a termination was unfair, it can order reinstatement, or compensation if reinstatement is not appropriate.
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Statutory review of Closing Loopholes reforms

- A statutory review of the Closing Loopholes reforms is required to commence from December 2025. This will include the reforms made to sham contracting and the new road transport jurisdiction in the FWC. The Government will make announcements about arrangements for the reviews in the coming months.

Road transport sham contracting narrative

Key points

- The department acknowledges the concerns raised by stakeholders about the viability of businesses in the road transport industry. We recognise that these are serious issues which are having a profound impact on peoples' livelihoods.
- Independent contracting is a legitimate form of work, and the fact that a business engages a driver as a contractor does not necessarily make it a sham arrangement.
 - Working full time hours or driving the contracting business' truck does not necessarily mean that a worker is an employee.
- Whether a person is an employee or independent contractor will depend on the specific facts and circumstances of the arrangement.
 - The department is not aware of any specific allegations of sham contracting that these concerns relate to, so can only comment on these matters generally.

Minimum standards

- Unlike the statutory safety net in place for employees, workers engaged as independent contractors do not have access to minimum standards, and this can mean that the worker is not paid fairly and that other businesses are subject to unfair competition.
 - In a price-taking industry with economic pressures running through supply chains, contractors often have limited bargaining power to negotiate their own price.
 - These challenges should be balanced with the principle that entrepreneurial drivers should be able to choose their own arrangements and run their own business.
 - This might include intentionally or unintentionally accepting a loss-making price for certain trips that is offset by other trips.
- The government introduced reforms to address the lack of minimum standards for road transport contractors.
 - The 2024 Closing Loopholes Act gave the Fair Work Commission new powers to set enforceable minimum standards for road transport contractors, preventing businesses from using contracting arrangements to undercut pay and conditions.
 - These powers include the ability to set standards applying throughout road transport contractual chains, to ensure that fair standards apply at all levels.
 - These reforms are in their early stages, and minimum standards will be introduced gradually. The Commission is currently considering 5

applications for road transport minimum standards and contractual chain standards.

- If made, businesses that engage contractors on terms that do not comply with minimum standards or contractual chain orders will be subject to penalties.

Sham contracting

- For contracting arrangements that are not genuine, the Fair Work Act prohibits sham contracting. This occurs when an employer misrepresents an employment relationship as an independent contracting arrangement.
- The government recently strengthened protections for employees against sham contracting:
 - Previously, employers could avoid liability if, at the time of the misrepresentation, they didn't know and were not reckless as to whether a worker was really an employee.
 - As a result of the government's Closing Loopholes reforms, employers must now prove they reasonably believed a worker was correctly classified as an independent contractor.
- The Closing Loopholes reforms also introduced a new definition of employment, which provides for a fairer test when determining whether a person is an employee or independent contractor.
 - The definition requires the real substance, practical reality and true nature of the working relationship to be considered, not just the terms of the contract.
- A statutory review of the Closing Loopholes reforms is currently underway. Feedback on the sham contracting reforms, road transport minimum standards jurisdiction and new definition of employment should be raised through that avenue.
- Allegations of sham contracting should be referred to the Fair Work Ombudsman for investigation.
 - The Fair Work Ombudsman conducts proactive compliance measures to tackle instances of sham contracting arrangements, with employers doing the wrong thing subject to prosecution and high penalties.
 - Individual employees, groups of employees, and their representatives including unions can also bring claims on behalf of workers.

Intersection with tax laws

- Concerns around sham contracting are complex and may also relate to regulatory compliance under other frameworks, such as taxation.

- The ATO-led Shadow Economy Taskforce may be an appropriate body to consider the regulatory response to these concerns.
 - The Shadow Economy Taskforce consists of 11 federal government agencies, including the ATO, FWO and Home Affairs.
 - It works across government to analyse shadow economy behaviours and proposes regulatory, administrative and legislative responses.



PARLIAMENT OF AUSTRALIA • THE SENATE
 SENATOR THE HON. BRIDGET McKENZIE

Shadow Minister for Infrastructure, Transport and Regional Development
 Leader of the Nationals in the Senate
 Senator for Victoria

12 December 2025

The Hon. Catherine King MP
 Minister for Infrastructure, Transport, Regional Development and Local Government
 Parliament House
 CANBERRA ACT 2600

Via email: minister.king@mo.infrastructure.gov.au

Dear Minister,

This week another highly respected trucking company based in regional Australia has entered voluntary administration. Wagga Wagga based Ron Crouch Transport has operated for 47 years, has 120 staff and has set high standards in the industry.

The demise of Ron Crouch Transport follows similar closures including Don Watson Group, BDS Express, Transtar Linehaul, Francis Transport, Austrans Container Services, Newnham Trucking, and Scotts Refrigerated Logistics. In total, Australian Securities and Investments Commission data shows 1,928 transport, postal and warehouse sector businesses have become insolvent since the election of the Albanese Labor Government.

Transport sector insolvencies were 275 per cent higher last year compared to 2021-22, and have increased a further 17.6% over the first five months of this 2025-26 year, with an additional 340 businesses insolvent at a rate of two businesses per day.

This is a crisis for an industry that is vital to the sustainable functioning of the Australian economy.

According to operators, factors contributing to these trucking business collapses include government regulation and taxes, inflationary impacts, aggressive bargaining by clients to drive down freight rates which is being enabled by a lack of action on sham contracting.

I respectfully request you to convene an urgent summit with trucking industry operators, to meet prior to Christmas, and agree to actions to protect this essential sector. One step the Government could take is to direct the Shadow Economy Compliance Program to move against the businesses involved in sham contracting which is cutting the floor out of transport rates making the sector uneconomic. The Government could also abandon its current push to impose a further six per cent increase to the truckie tax on fuel.

To demonstrate both parties of government are committed to support the sector, I would be willing to attend the summit and contribute towards driving positive outcomes for our trucking businesses.

Yours sincerely,

Senator the Hon. Bridget McKenzie

From: s22(1)(a)(ii)
To: s22(1)(a)(ii)
Cc: s22(1)(a)(ii)
Subject: RE: Input request re road transport and sham contracting [SEC=OFFICIAL]
Date: Friday, 23 January 2026 4:36:00 PM
Attachments: [Attachment A - Roundtable Communiqué Sham Contracting and Shadow Economy.docx](#)
[image001.png](#)
[image002.jpg](#)

Here you go. Apologies for the formatting!

Thanks,

s22(1)(a)(ii) (he/him)

Heavy Vehicle Policy • Surface Transport Emissions and Policy Division

s22(1)(a)(ii) [@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)

P s22(1)(a)(ii) • M s22(1)(a)(ii)

Dharrawal Country

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts
 CONNECTING AUSTRALIANS • ENRICHING COMMUNITIES • EMPOWERING REGIONS

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*I acknowledge the traditional custodians of this land on which we meet, work and live.
 I recognise and respect their continuing connection to the land, waters and communities.
 I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islander people.*

From: s22(1)(a)(ii) [@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au)
Sent: Friday, 23 January 2026 4:27 PM
To: s22(1)(a)(ii) [@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)
Cc: s22(1)(a)(ii) [@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au)
Subject: RE: Input request re road transport and sham contracting [SEC=OFFICIAL]

Hi s22(1)(a)(ii),

Thanks so much for sending the calendar invitation for next Friday.

I was just wondering if it was possible to get a copy of Attachment A to your briefing note (roundtable communique)? Much appreciated if you could send through a copy in advance of our meeting.

Have a great long weekend.

Many thanks

s22(1)(a)(ii)

s22(1)(a)(ii)

Assistant Director
 Gig and Contractor Policy | Strategy and Protections Branch
 Employment Conditions Division
 Australian Government Department of Employment and Workplace Relations

s22(1)(a)(ii)
 s22(1)(a)(ii) [@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au)

The Department of Employment and Workplace Relations acknowledges the traditional owners and custodians of country throughout Australia and their continuing connection to land, waters and community. We pay our respects to them and their cultures, and Elders past, present and emerging.

From: s22(1)(a)(ii) [@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)
Sent: Friday, 23 January 2026 1:03 PM
To: s22(1)(a)(ii) [@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au)
Cc: s22(1)(a)(ii) [@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au); s22(1)(a)(ii) [@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au); s22(1)(a)(ii) [@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au); s22(1)(a)(ii) [@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au); s22(1)(a)(ii) [@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au)
Subject: RE: Input request re road transport and sham contracting [SEC=OFFICIAL]

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

OFFICIAL

Great, thanks s22(1)(a)(ii), I've just sent an invitation to meet at 11 am next Friday.

Thanks,

s22(1)(a)(ii) (he/him)

Heavy Vehicle Policy • Surface Transport Emissions and Policy Division

s22(1)(a)(ii) @infrastructure.gov.au

P s22(1)(a)(ii) • M s22(1)(a)(ii)

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OFFICIAL

From: s22(1)(a)(ii) @dewr.gov.au>

Sent: Thursday, 22 January 2026 11:14 AM

To: s22(1)(a)(ii) @infrastructure.gov.au>

Cc: s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @infrastructure.gov.au>

Subject: RE: Input request re road transport and sham contracting [SEC=OFFICIAL]

s22(1)(a)(ii) - Duplicate of material in Document 3

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Pages 21-24 (Document 3) removed in their entirety as irrelevant under section 22(1)(a)(ii) on the basis that they duplicate material included in Document 2.



Road Transport Industry Roundtable on Sham Contracting and the Shadow Economy

Communique from Roundtable Participants

Wednesday 12th November 2025

On Wednesday 5th November, Senator Glenn Sterle – Labor Senator for Western Australia and Chair of the Senate Rural Regional Affairs and Transport Committee, convened a roundtable to discuss shadow economic activity in the road transport industry and specifically the effect that sham contracting is having on transport companies, productivity and viability. If left unaddressed, shadow economic activity and sham contracting could lead to the demise of the road transport industry in Australia.

The roundtable was attended and represented by every transport association in Australia, the Australian Road Transport Industrial Organisation, Transport Workers Union, employers/business owners, relevant Ministers and Senior Government Department Officials from the Australian Taxation Office, Department of Workplace Relations, Australian Border Force and the Department of Home Affairs.

Background

The road freight industry is experiencing the perpetual rise of ABN-based employment where workers are treated as contractors, denied basic entitlements, circumventing employee protections and at times PAYG. This illegal activity is not only eroding workers' rights but destabilising the entire supply chain, creating a two-tier system that favours cost-cutting over safety and fairness.

The widespread use of ABNs to halve labour costs creates an unbalanced market, forcing businesses to either accept unfair terms or risk insolvency. This not only jeopardises the sustainability of the industry but also artificially suppresses wages and safety standards and increases the tax burden on compliant operators.

In summary, we have a supply chain that is under enormous stress with the ever-increasing illegal use of ABN's to halve labour costs and avoid tax and worker entitlements to meet client demands on freight.

The Road Freight industry employs 640,000 Australians and contributes 8.6% to our GDP. Yet, the erosion of the statutory framework if left unaddressed will not only undermine industry stability it will also lead to substantial revenue losses and hamper the capacity to fund essential public services, workers compensation and infrastructure.

Ill-prepared drivers operating under ABNs outside legislative standards elevate risks and heighten the likelihood of accidents. Australia's ambition is to lead through **PRODUCTIVITY** combined with fair and decent working conditions. However, the **STABILITY** of the supply chain is under threat, as its industrial integrity continues to erode.

Review of the 'Closing the Loopholes Legislation'

It was agreed by participants that the "reasonably believed" defence introduced by the Closing the Loopholes legislation remains dangerously broad - allowing some employers to justify misclassification with minimal proof.

The amendment Bill 2023 replaced subsection 357(2) to provide a defence for an **EMPLOYER** that allows an argument before a court that the **EMPLOYER** "reasonably believed that the contract was a contract for services" **not just labour**.

The Amendment Bill also introduced, subsection 357(3) providing FIVE further elements to the reasonable belief defence creating a loophole in the defences of Part 9 of the Fair Work Act 2009.

Minister Rishworth noted that a 12-month review of the Closing the Loopholes Amendments **would consider all potential improvements to the legislation and encouraged participants to actively contribute to the review process.**

A better way to achieve consistency of EMPLOYEE definition across Tax & Fair Work Law – Including a Forward-Looking plan

It was agreed by participants that work on the review of the 'Closing the Loopholes' legislation would include the inconsistency of "employee" definition across the Fair Work Act and Tax Law. It is expected a plan would be developed for Ministerial consideration as to how to best resolve this inconsistency.

Improve the effectiveness of the Taxable Payments Annual Report (TPAR)

The ATO outlined to the participant group that road freight industries are required to report through a TPAR where they pay contractors to deliver road freight services. This system was designed to prevent avoidance of tax through cash payments and the under-reporting of income but is less effective than it could be.

It was agreed the ATO would review how the TPAR is used to identify and action incorrect registration omitted income, labour expenses and non-lodgement to better ensure those who engage in shadow economy behaviour and deliberately operate outside the tax system are detected by the ATO.

Develop and implement a joint agency on-road enforcement program

All participants agreed that a National Joint-agency Enforcement and Intelligence Program be undertaken as promptly as can be organised. This program is likely to be undertaken in a series of operations over a 12 month period. Agencies such as Border Force, NHVR, authorised persons of the ATO and the Fair Work Ombudsman, along with State or Australian Federal Police where necessary would comprise the nucleus of the enforcement team.

The purpose would be to gather critical information on the industrial/tax and migration law abuses to then provide for high profile strike targeting of the sham practitioners.

There was a commitment for the Australian Taxation Office to work with the Department of Home Affairs in identifying income tax anomalies of work-based visa holders in the road freight industry.

These anomalies would identify which individuals or companies would require further investigation.

Next steps

The roundtable participant group look forward to meeting again in the first quarter of 2026 to discuss the outcomes of enforcement action taken and the progress of the 'Closing the Loopholes' review.

 Australian Government Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts	Meeting/Event Brief MB25-002093
--	--

To: Catherine King

MEETING: Roundtable with Road Transport Industry

Timing: 05 November 2025

Venue: ACT APH

Meeting with:

Attendees we understand may be in attendance include:

- **The Hon Amanda Rishworth MP**, Minister for Employment and Workplace Relations
- **The Hon Matt Thistlethwaite MP**. Assistant Minister for Immigration, Assistant Minister for Foreign Affairs and Trade.
- **The Hon Dr Andrew Leigh MP** - Assistant Minister for Productivity, Competition, Charities and Treasury.
- **Rob Heferen** - Commissioner of Taxation, Australian Taxation Office (ATO).
- **Michael Kaine** - National Secretary, Transport Workers' Union (TWU).
- **Gary Mahon** - CEO of the Queensland Trucking Association (QTA).
- **Peter Anderson** - CEO of the Victorian Transport Association (VTA), Secretary of the Australian Road Transport Industrial Organization (ARTIO) National Council.
- **Warren Clark** - CEO of the National Road Transport Association (NatRoad).
- **Matt Munro** - CEO of the Australian Trucking Association (ATA)

Our Proposed Objectives:

- Assure the road freight industry that the Australian Government has heard their concerns about the unfairness of sham contracting and its threat to heavy vehicle productivity, safety and industry resilience.
- Work with members to identify priority actions for the Transport portfolio that could assist in addressing the issue of sham contracting.

Their Objective:

- Outline the impacts that sham contracting is having on transport companies and owner drivers and to explore solutions that will help stop this activity as well as support the productivity of transport workers and companies.

Key Points:

1. We understand Minister Rishworth is attending the Roundtable. The agenda is expected to cover matters within her portfolio responsibilities.
2. Sham contracting is a threat to the productivity, safety and sustainability of the road freight sector.
3. Industry is concerned about unfairness, heightened risk, market distortion, reduced margins and increased insolvency rates being driven by sham contracting.
4. s47C [REDACTED]

Sensitive and Critical Information: Nil.

Name: Sally Todd
 Position: Assistant Secretary, Land Transport Policy
 Division: Surface Transport Emissions and Policy
 Ph: s22(1)(a)(ii) [REDACTED]
 Mob: s22(1)(a)(ii) [REDACTED]
 Date Cleared: 3 November 2025

Contact Officer: s22(1)(a)(ii) [REDACTED]
 Division: Heavy Vehicle Reform
 Ph: s22(1)(a)(ii) [REDACTED]
 Mob: s22(1)(a)(ii) [REDACTED]

Attachments:

Attachment A: Roundtable members' positions on sham contracting

Attachment B: Talking points

Attachment C: Background information

ATTACHMENT A

Roundtable members' positions on sham contracting

Senator Glenn Sterle has repeatedly called on the ATO and Commissioner Heferen to tackle sham contracting. s47C

Senator Sterle is supported by industry figures, including Peter Anderson, Warren Clark, Matt Munro and Gary Mahon. Glenn Sterle is a former truck driver and vocal advocate for the industry.

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Transport, Regional Development, Communications, Sport and the Arts

ATTACHMENT B**TALKING POINTS****Acknowledging the impact of sham contracting on the heavy vehicle sector**

- The Australian Government recognises sham contracting as a threat to the productivity, safety and sustainability of the road freight sector.
- We hear industry's concerns about the unfairness and heightened risk that sham contracting introduces to the sector and we agree that it's unfair and unsafe to have drivers missing out on award pay, super, sick leave, workers' comp and other protections.
- We share your concern about the flow on effects of sham contracting, in particular market distortion, reduced margins and increased insolvency rates.
- We want to work with industry and state and territory governments to try and resolve the issue of sham contracting as quickly as possible

Acknowledging recent legal changes to help prevent sham contracting

- The Government has recently taken action to address sham contracting, including in the road transport sector. These actions fall within the portfolio responsibilities of my colleague, Minister Rishworth, so I invite Minister Rishworth to talk to those reforms.

What industry wants:

- I have heard from industry about a number of ways to address sham contracting and I thank you for the time and effort that has gone into finding these solutions.
- These fall across several areas of portfolio responsibilities, and I would invite my colleagues to speak to the opportunities they see to drive continued improvements in the areas they are responsible for.

ATTACHMENT C

Background Information*Sham contracting*

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From: s22(1)(a)(ii) on behalf of [Erin Dale](#)
To: s22(1)(a)(ii)
Cc: [Erin Dale](#)
Subject: RE: Tax avoidance and shadow economy activity in the road transport sector - Request for information [SEC=OFFICIAL]
Date: Monday, 3 November 2025 4:09:12 PM
Attachments: [image001.png](#)
[Sterle to ATO July 2025 - Tax avoidance in road transport.pdf](#)

Hello s22(1)(a)(ii),

Apologies for the delay in responding – please find attached documents that may assist with your brief.

Regards

s22(1)(a)(ii) on behalf of
 Deputy Commissioner Erin Dale
 Private Wealth | Behaviours of Concern
 Compliance and Engagement Group (CEG)
 Australian Taxation Office
P s22(1)(a)(ii) | **M** s22(1)(a)(ii)
 Part-time hours Monday to Thursday and alternate Friday (pay week)

From: s22(1)(a)(ii) @infrastructure.gov.au
Sent: Friday, 10 October 2025 11:19 AM
To: Erin Dale <Erin.Dale@ato.gov.au>
Cc: Report Tax Evasion <s22(1)(ii)@ato.gov.au>
Subject: Tax avoidance and shadow economy activity in the road transport sector - Request for information [SEC=OFFICIAL]

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EXTERNAL EMAIL: STAY SMART, STAY SECURE.

OFFICIAL

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Hi Erin,

I am writing in relation to the attached correspondence between Senator Sterle and the Commissioner of Taxation. It relates to tax avoidance and shadow economy activity in the road transport sector.

Minister for Transport Catherine King is attending a 'Road Transport Industry Roundtable' on Wednesday 5 November at Parliament House. Her office has requested a meeting brief to cover: *'the shadow economy as it relates to the road transport industry, the impacts that sham contracting are having on transport companies and owner-drivers, and to explore solutions that will help stop this activity as well as support the productivity of transport workers and companies.'*

I am seeking input on these matters from DEWR, but would also be appreciative of any ATO input, given your expertise. Would someone in your team please be able to share with me the more comprehensive response provided to Senator Sterle on these matters?

Thanks,

s22(1)(a)(ii) (he/him)

Heavy Vehicle Reform • Surface Transport Emissions and Policy Division

s22(1)(a)(ii) [@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)

P s22(1)(a)(ii) • M s22(1)(a)(ii)

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I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islander people.

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GLENN STERLE

**CHAIR – SENATE RURAL REGIONAL AFFAIRS & TRANSPORT LEGISLATION COMMITTEE
LABOR SENATOR FOR WESTERN AUSTRALIA**

Mr Rob Heferen
Commissioner
Australian Taxation Office

Dear Commissioner

TAXATION AVOIDANCE IN THE ROAD TRANSPORT INDUSTRY

I write to request that you urgently establish a task force to investigate the wide-spread avoidance of paying appropriate levels of tax in the road transport industry.

As you may be aware, the road transport industry is facing significant pressure – the freight task is increasing, and the number of road transport companies is declining.

In their place, there is widespread engagement of drivers who are required to possess an ABN and are paid as little as \$40 per hour. This practice, with such a low hourly rate has many consequences, one of the main being the avoidance of paying tax and providing for other entitlements.

The low hourly rate obviously leads to unsafe driving practises, which has a direct impact on our community, along with the families of the drivers and others that are affected by risky driving and accidents.

I am extremely concerned that these contracting practises are eroding our tax base and would urge you to examine whether appropriate GST is being paid, along with PAYG taxes, insurances and superannuation.

Some of this nation's largest transport companies have raised their concerns with me, as the engagement of drivers in this way puts enormous cost pressures on those that do the right thing and pay their taxes as and when they fall due.

I would welcome the opportunity to discuss this matter further with you, where I would also be happy to share examples of the conduct I am concerned about.

In the meantime, I urge you to establish a dedicated team to investigate the conduct and taxation practises of the road transport industry.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G. Sterle', with a stylized flourish at the end.

GLENN STERLE

LABOR SENATOR FOR WESTERN AUSTRALIA

17 July 2025

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Transport, Regional Development, Communications, Sport and the Arts



Australian Government
Australian Taxation Office

Commissioner of Taxation

Senator Glenn Sterle

Via email: senator.sterle@aph.gov.au

Dear Senator Sterle

Re: Taxation Avoidance in the Road Transport Industry

Thank you for your correspondence received on 17 July.

I have passed it on to our Behaviours of Concern team under Deputy Commissioner Erin Dale for their appropriate consideration.

I will be in touch again soon with a comprehensive response to the matters you've raised.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R Heferen', followed by a horizontal line.

Rob Heferen
Commissioner of Taxation

22 July 2025

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Transport, Regional Development, Communications, Sport and the Arts

OFFICIAL



Australian Government
Australian Taxation Office

Commissioner of Taxation

Ref: EC25-000009

Senator Glenn Sterle
Senator for Western Australia
Unit G2 and G3
150-152 Riseley Street
BOORAGOON WA 6154

Dear Senator Sterle

Thank you for your letter of 17 July 2025, expressing your concerns about tax avoidance in the road transport industry.

The ATO remains committed to upholding the integrity of the tax and superannuation system, including compliance actions against sham contracting.

The creation of a taskforce would generally be a matter for the Government, however I have spoken to the relevant area within the ATO to understand what compliance approaches are taken for the road transport industry.

The ATO invests significant resources to conduct extensive compliance programs to address risks associated with individuals or entities not meeting their GST, PAYG withholding and superannuation guarantee obligations.

There are around 4.7 million active small businesses in Australia with over 100,000 of these being road freight transport entities.

Our compliance approaches use risk detection models and third-party information to consider non-compliance risks across all industries, including road transport, and we deal with non-compliance risks in a variety of ways including lighter touch communication interactions through to intensive audits.

Road freight industries are also required to report through a Taxable payments annual report (TPAR) where they pay contractors to deliver road freight services. This system was designed to prevent avoidance of tax through cash payments and the under reporting of income.

TPAR information is reviewed and used to identify and action incorrect registration, omitted income and non-lodgment, as well as those who engage in shadow economy behaviour and deliberately operate outside the tax system.

I encourage your constituents to report any concerns about businesses who are doing the wrong thing, including if they suspect incorrect treatment of an employee as an independent contractor, to the ATO. They can complete the confidential [tip-off form](#) on our website www.ato.gov.au (this can be located by searching 'QC 16789' in the search bar). This form is also available in the 'Contact us' section of the ATO app or can be completed by calling **1800 060 062**.

However, if the contractual arrangement between the parties is one of genuine independent contracting, the ATO's role is only to make sure both parties meet their obligations. There is substantial guidance on the ATO website to assist businesses and workers understand whether a worker is an employee or independent contractor, and the different obligations for tax and super purposes for each arrangement.

As sham contracting or underpaying of award entitlements is a contravention under the Fair Work Act, it can be dealt with by the Fair Work Ombudsman (FWO) through the imposition of civil penalties. In addition to the work undertaken by the ATO, the FWO also investigates complaints and cases relating to sham contracting and underpayment of entitlements.

Further information about FWO's approach to sham contracting can be found on their website www.fairwork.gov.au by searching 'Sham contracting'.

I understand that you are meeting with the Assistant Treasurer on 25 August 2025 to discuss this matter. Should you wish to discuss further following the meeting, ATO Deputy Commissioner for Superannuation and Employer Obligations, Emma Rosenzweig, would be more than happy to help. Our Parliamentary Services team (parliamentaryservices@ato.gov.au) can assist to arrange a time.

I appreciate you sharing your concerns and trust this information will be of assistance.

Yours sincerely



Rob Heferen
Commissioner of Taxation
19 August 2025

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GLENN STERLE
CHAIR – SENATE RURAL REGIONAL AFFAIRS & TRANSPORT
LEGISLATION COMMITTEE
LABOR SENATOR FOR WESTERN AUSTRALIA

Mr Rob Heferen
 Commissioner
 Australian Taxation Office

Via email: rob.heferen@ato.gov.au

Dear Mr Heferen

I write following a meeting I had recently with the ATO's Parliamentary Services Team and leaders from the road transport industry to raise serious concerns in relation to the use of ABN's, tax avoidance and sham contracting in the road transport industry.

I was joined at this meeting by Gary Mahon, CEO of the Queensland Trucking Association (QTA) and Warren Clark, CEO of Natroads, both senior leaders of the road transport industry who are acutely aware of the seriousness of this issue and I share their concerns about the future of the road transport industry if this sort continues.

It is not a secret across the road transport industry that scrupulous employers are being enabled by dishonest accountants who are encouraging them to engage drivers with ABN's to drive trucks owned by the employers.

While drivers engaged on ABN's receive an amount that may look attractive on the surface, under these sham contracting arrangements, employers who engage drivers on ABN's get away without paying workers compensation, holiday allowances, sick leave allowances, annual leave, long service leave or superannuation and they don't collect tax.

At the meeting with the ATO Parliamentary Services Team, we were at pains to stress to your officers that this practice is spreading throughout the road transport industry unabated and without any policing. This is unlawful behaviour and nothing is being done about it.

GO2/150-152 Riseley Street Booragoon WA 6154
 Phone: 08 9455 1420 • Toll free: 1300 666 494

Parliament House, Canberra ACT 2600 • Phone: 02 6277 3615

Clients from large entities are now demanding lower freight rates and are openly encouraging transport companies to rearrange their employment practices and engage drivers on ABN's, denying them of the above entitlements and they are doing this because they know they can get away with it.

Following the meeting I had with your officers, where I specifically requested a discussion on tax avoidance in the road transport industry, I received a follow up email with a link to a decision impact statement from a case titled JMC Pty LTD V Commissioner of Taxation. Your officers said that this case could be referenced as one where the court is prepared to accept the arrangement cited in the case as an example of contracting. What I find perplexing though is that this case has absolutely no reference, association or relevance to or with the road transport industry whatsoever.

With the greatest of respect, the response to me without any reference to tax evasion and sham contracting in the road transport industry or any specific or individual cases that refer to the transport industry, suggests to me that the ATO either does not understand or appreciate the gravity of this situation nor have they done the work to look into this matter otherwise you would have provided me with case studies that reference contractual engagements and or arrangements in the road transport industry, which you did not do.

The ATO by your lack of understanding and action are facilitating a race to the bottom and the group and I were completely disappointed by the attitude of your officers towards the concerns we raised in relation to sham contracting and tax avoidance in the road transport industry.

If there was a taskforce to look into this, as I have requested, the ATO would have all the evidence you need in order to investigate, prosecute and stop this unlawful activity from being able to continue and thrive.

By the ATO's own figures, the road transport industry is rated as the fourth largest industry in the black economy up from 7th a couple of years ago. The ATO's own figures also say that there are 172,000 ABN's in the road transport industry yet you don't have any data on how these are being used and whether any of the activity is illegal.

Many decent reputable and tax paying Australian businesses are now closing their doors and putting their gear (trucks, trailers, equipment etc) in the hands of auction houses. They are doing this because they can't compete on a level playing field because sham contracting and tax avoidance is pricing them out of the market.

All the good intent around Transport Reform within the Albanese Government's Closing the Loopholes Legislation will be undermined if this rort is not investigated and prosecuted as a matter of urgency.

I find it extremely unacceptable that the ATO tried to mislead me in relation to prosecutions they said they had lost and therefore why they can't pursue this issue when

the case the ATO cited and which I referred to before has absolutely nothing to do with the road transport industry or more specifically, no relation to a truck being provided to an ABN holder.

I therefore again request that the ATO set up a team to investigate this issue as a matter of urgency. In order to help facilitate this, I would welcome a meeting at your earliest convenience to discuss how best we can progress this matter.

Please find attached further information on these matters that I have raised.

Kind regards



GLENN STERLE
CHAIR – SENATE RURAL REGIONAL AFFAIRS AND TRANSPORT LEGISLATION
COMMITTEE
LABOR SENATOR FOR WESTERN AUSTRALIA

Tuesday 2nd September 2025

Cc:

- Hon Dr Daniel Mulino MP, Assistant Treasurer – Federal Member for Fraser
- Mr Peter Anderson – National Secretary, Australian Road Transport Industrial Organisation (ARTIO)
- Mr Laurie D'Apice – Secretary/Treasurer, Australian Road Transport Industrial Organisation (ARTIO)
- Mr Gary Mahon – Chief Executive Officer, Queensland Trucking Association (QTA)
- Mrs Michelle Harwood – Executive Director, Tasmanian Transport Association (TTA)
- Mr Cam Dumesny – Chief Executive Officer, Western Roads Federation
- Mr Warren Clark – Chief Executive Officer, National Road Transport Association (NatRoad)
- Mr Simon O'Hara – Chief Executive Officer, Road Freight NSW
- Mr Glyn Castanelli – National President, National Road Freighters Association (NRFA)
- Mr Craig Forsyth – National Vice President, National Road Freighters Association (NRFA)
- Mr Michael Kaine – National Secretary, Transport Workers Union of Australia (TWU)
- Mr Mathew Munro – Chief Executive Officer, Australian Trucking Association (ATA)

**Commissioner of Taxation**

Ref: EC25-000014

Senator Glenn Sterle
Senator for WA
Unit G2 and G3
150-152 Riseley Street
BOORAGOON WA 6154

Dear Senator Sterle

Thank you for your recent letter following a meeting with ATO officers and for raising your concerns in relation to the road transport industry directly with me. I appreciate the opportunity to respond.

At the outset, I want to assure you it was never our intention to mislead you. As there are no specific tax case law examples of sham contracting in the road transport industry, we provided a comparable case involving another industry where the Full Federal Court considered the issue of whether a worker was engaged as an employee or a contractor. The intention was to illustrate the principles the court considers when deciding whether a worker is validly engaged as a contractor, or should legally be treated as an employee.

In relation to your concerns about the increase in drivers being hired as contractors in the road transport industry, it is important to clarify the ATO does not have jurisdiction to require certain workers to be engaged as employees. As this is a policy matter relating to employment law, I will be referring your correspondence to the Secretary of the Department of Employment and Workplace Relations for consideration.

On the issues you raise about tax avoidance in the road transport industry, I want to assure you the ATO takes these behaviours very seriously and continues to target shadow economy behaviours across a range of industries. In the 2025 Federal Budget, the Shadow Economy Compliance Program was extended and expanded until 30 June 2029, which will enable the ATO to reduce shadow economy activity that enables non-compliant businesses to gain an unfair competitive advantage. Since commencing in July 2018, through this ATO-led program, the ATO has raised liabilities of over \$9.2 billion from businesses deliberately operating in the shadow economy, including the road transport industry.

I would also like to reiterate that since 2019, where road freight industries pay contractors to deliver road freight services, they are required to report through a Taxable payments annual report (TPAR). This data assists the ATO in identifying those who engage in shadow economy behaviour and deliberately operate outside the tax system, from which is used for compliance-related programs.

Where anyone has evidence of tax evasion occurring we have avenues to receive this information, including our [Tax Integrity Centre](#) tip-off form or by calling 1800 060 062. I encourage anyone to utilise the channels to report suspect behaviour. I can assure you that all reports are analysed and actioned.

I am happy to meet with you to discuss further if needed. I value your engagement and the opportunity to provide assurance about the ATO's role and responsibilities.

Yours sincerely

Rob Heferen
Commissioner of Taxation
12 September 2025

From: s22(1)(a)(ii)
To: s22(1)(a)(ii)
Cc: s22(1)(a)(ii) ; s22(1)(a)(ii) ; s22(1)(a)(ii)
Subject: Re: URGENT: Assistance and Input for Road Transport Industry Roundtable [SEC=OFFICIAL:SENSITIVE]
Date: Friday, 31 October 2025 8:33:26 PM
Attachments: [image002.png](#)
[image003.png](#)
[image001.jpg](#)

OFFICIAL: SENSITIVE

Hi s22(1)(a)(ii)

Thanks so much for this advice and fast turnaround.

Thanks for your advice that Minister Rishworth is attending and for the amendments. We will certainly pass on advice to liaise between offices.

Many thanks

s22(1)(a)(ii)

From: s22(1)(a)(ii) s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au)>
Date: Friday, 31 October 2025 at 6:22:37 pm
To: s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)>
Cc: s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au)>, s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au)>, s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au)>
Subject: RE: URGENT: Assistance and Input for Road Transport Industry Roundtable [SEC=OFFICIAL:Sensitive]

You don't often get email from s22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dewr.gov.au](mailto:s22(1)(a)(ii)@dewr.gov.au)>. [Learn why this is important](#)

OFFICIAL: Sensitive

Hi s22(1)(a)(ii),

Thanks for reaching out. We've actually had advice come through from Minister Rishworth's Office that she will be attending the roundtable next week, along with DEWR representatives. Our view is that Minister Rishworth is best placed to respond to any questions relating to her portfolio responsibilities, and s47C

In that vein, we have tried to flatten the talking points below and have reattached the background advice we previously provided to support your minister's role in the roundtables. It might also be worth suggesting your minister's office liaise with Minister Rishworth's Office around logistics on the day.

Happy to discuss,

s22(1)(a)(ii)

s22(1)(a)(ii)

Director

Gig & Contractor Policy | Strategy and Protections Branch
 Employment Conditions Division | Workplace Relations Group

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Australian Government Department of Employment and Workplace Relations

Phone s22(1)(a)(ii) | Mobile s22(1)(a)(ii)

dewr.gov.au

The Department of Employment and Workplace Relations acknowledges the traditional owners and custodians of country throughout Australia and their continuing connection to land, waters and community. We pay our respects to them and their cultures, and Elders past, present and emerging.

OFFICIAL: Sensitive

OFFICIAL: Sensitive

From: s22(1)(a)(ii) @infrastructure.gov.au>
Sent: Friday, 31 October 2025 5:10 PM
To: s22(1)(a)(ii) @dewr.gov.au>; s22(1)(a)(ii) @dewr.gov.au>
Cc: s22(1)(a)(ii) @dewr.gov.au>
Subject: URGENT: Assistance and Input for Road Transport Industry Roundtable
 [SEC=OFFICIAL:Sensitive]
Importance: High

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OFFICIAL: Sensitive

Hello s22(1)(a)(ii)

I am after some urgent assistant. I am from Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts. I just got s22(1)(a)(ii) out of office and found your names and understand you have previously had some contact with my colleague s22(1)(a)(ii) in our Freight Policy Section.

We need to provide some talking points on sham contracting for our Minister to speak to a Road Transport Industry Roundtable on Monday and we are seeking any comments or additions to some talking points (pasted in the email below).

I acknowledge the lateness of the request, but if anyone is able to review the below and/or provide input, I would be extremely grateful.

Many thanks

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s22(1)(a)(iii)

s22(1)(a)(ii) (she/her)

Director • Heavy Vehicle Reform • **Surface Transport Emissions and Policy Division**s22(1)(a)(ii) b@infrastructure.gov.au

P s22(1)(a)(ii)

GPO Box 594 Canberra, ACT 2601

LGBTIQ+ Ally

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts
CONNECTING AUSTRALIANS • ENRICHING COMMUNITIES • EMPOWERING REGIONS

infrastructure.gov.au

I acknowledge the traditional custodians of this land on which we meet, work and live.

I recognise and respect their continuing connection to the land, waters and communities.

I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islander people.

OFFICIAL: Sensitive

From: s22(1)(a)(ii) @infrastructure.gov.au

Sent: Friday, October 31, 2025 16:57

To: s22(1)(a)(ii) @dewr.gov.au <s22(1)(a)(ii) @dewr.gov.au>

Subject: URGENT: Assistance and Input for Road Transport Industry Roundtable

OFFICIAL: Sensitive

Hi s22(1)(a)(ii)

I am after some urgent assistant. I am from Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts. We need to provide some talking points for our Minister to speak to a Road Transport Industry Roundtable on Monday and we are seeking any comments or additions to some talking points .

s47C

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 Transport, Regional Development, Communications, Sport and the Arts

s47C

Many thanks

s22(1)(a)(ii)

s47C

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Transport, Regional Development, Communications, Sport and the Arts

s47C

s22(1)(a)(ii) (she/her)

Director • Heavy Vehicle Reform • **Surface Transport Emissions and Policy Division**s22(1)(a)(ii) [@infrastructure.gov.au](mailto:s22(1)(a)(ii)@infrastructure.gov.au)

P s22(1)(a)(ii)

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