

IN THE FAIR WORK COMMISSION

AM2026/10 and ors

Supplementary Submission of the Australian Council of Trade Unions

Introduction

1. The Australian Council of Trade Unions (**ACTU**) seeks the leave of the Expert Panel convened to hear the proceedings in *AM2026/10 and ors* to file this brief supplementary submission.

Background

2. Between 14 and 16 April 2026 unions affiliated to the ACTU filed applications seeking to vary Vehicle Allowances to increase the rate paid per km in circumstances where an employee uses a private vehicle in the course of their duties (**Vehicle Allowance**) and to introduce a mechanism requiring monthly re-assessments of vehicle allowances (**Union Applications**).
3. On 20 April 2026 His Honour, Justice Hatcher made directions requiring union parties to file evidence, submissions and any other material by 24 April 2026, and parties wishing to file material in reply to file evidence, submissions and other material by 12 May 2026.
4. The ACTU and affiliated unions collectively filed evidence and submissions in support of the proposed variations on or shortly after 24 April 2026.
5. On 12 May 2026 parties with an interest in the proceedings filed submissions in reply.

Narrowing of union position

6. Some responses to the submissions and evidence filed by the ACTU and affiliated unions have raised concerns with that aspect of the variations that would require monthly reassessments of Vehicle Allowances.
7. Objections raised include the administrative and compliance burden.¹ Other parties have expressed support, but suggested ways in which the proposal could be simplified.²
8. As indicated in the ACTU's submissions of 24 April 2026 the ACTU is open to alternative proposals that are directed at giving workers affected by the fuel crisis some relief.
9. Accordingly, the ACTU has considered the feedback in reply submissions objecting to the schedule of monthly reassessments.
10. We have also considered the evidence filed on behalf of Australian Business Industrial, Ageing Australia and the NSW Business Chamber that outlines the particular impact that re-assessing an allowance on a monthly basis would have in the disability support sector.
11. In an attempt to narrow the issues that need to be dealt with in the hearing, the ACTU presents the following amended proposal:

[1] Vehicle Allowances are adjusted on a once off and permanent basis using the percentage increase between the private motoring index for the month of December 2025 and March 2026;³

¹ See for example submission of the Council of Small Business Organisations Australia 11 May 2026 at paragraphs [7]-[11].

² See for example submission of the CFMEU (Construction and General Division) at paragraphs [7]-[12].

³ The basis for this is set out in the ACTU's submission of 24 April 2026 and the draft determinations at proposed clause XY.4.

[2] This adjusts most Vehicle Allowances by 7.86%.

[3] For most (but not all) Vehicle Allowances the new amount is 1.06 or 1.07 per km (depending on whether the starting point is 0.98 or 0.99).

Additional issues the ACTU wishes to raise with notice

Deviation in allowance rates

12. The ACTU wishes to raise an additional matter that is squarely relevant to these proceedings.
13. The ACTU acknowledges that the matter is properly something that should have been raised in the first round of submissions; that this wasn't done is a product of the truncated timetable.
14. The issue we wish to raise concerns the divergence in Vehicle Allowances between 0.98 and 0.99 cents. As noted in the ACTU's submissions of 24 April 2026 most Vehicle Allowances are currently expressed as being payable on the basis of either \$0.98 or \$0.99 per kilometre.
15. This one-cent divergence appears to be the result of decisions by the Annual Wage Review Expert Panels to stagger the increases to modern award minimum wages awarded during annual wage reviews for 2019/20, 2020/2021 and 2021/2022 for different awards depending on the extent of the impact of the COVID-19 pandemic on industries and occupations covered by those awards.
16. The decision to stagger increases to modern award minimum wages is relevant to the adjustment of expense allowances because standard clause in modern awards providing for adjustment of expense related allowances calls for comparisons between the most recently published index and the index at the time an expense allowance was last adjusted.
17. In the 2019–20 Annual Wage Review, this had effect as follows:
 - a. The Expert Panel determined operative dates of 1 July 2020, 1 November 2020 and 1 February 2021 for modern award minimum wage increases.⁴ Because expense-related allowances are adjusted at the time of wage increases using the most recent index figure, this resulted in different awards being adjusted at different reference points.
 - b. For example, Vehicle Allowances in Group 1 Awards (these were the awards where an increase to modern award minimum rates were not delayed) were varied via determinations that had effect from 1 July 2020. The determinations lifted Vehicle Allowances in Group 1 Awards from March 2020 to 0.8 from 0.74 cents per km on the basis of the percentage movement between the private motoring index between March 2014 and March 2020.⁵
 - c. Vehicle Allowances in modern awards in Groups 2 and 3 were not adjusted following the adjustments to the standard rates in those awards on 1 November 2020 or 1 February 2021 respectively. This was because the applicable indexes for each of these awards was lower compared with the index used the last time the awards were adjusted (being March quarter 2014) notwithstanding the index for March 2020 was higher than March 2014 and required Group 1 awards to be adjusted to 80 cents.

⁴ *Annual Wage Review 2019-2020* [2020] FWCFB 3500 [466].

⁵ See for example, PR719006, re expense related allowance adjustments for the *Nurses Award 2020*.

18. Tracking the divergence in Vehicle Allowances in all modern awards that contain such allowances becomes a more complex exercise after this point because of subsequent AWR decisions which again staggered increases to minimum wages, but with different modern award groupings, leading to increasingly complex permutations.
19. For example, in the 2020–21 Annual Wage Review the Expert Panel again applied different operative dates (July, September and November 2021) to increases to modern award minimum wages⁶, and again this had the consequence that expense allowances were adjusted at different times. This had the following effect:
 - a. For the awards already set at 80 cents a km, (the original Group 1 Awards) these awards were not adjusted as the percentage increase between the relevant indexes was 0.47 (106 to 106.5), which is not enough to increase the allowance.
 - b. Awards that were included in group 2 for the 2019/2020 AWR decision, but that received a July 1 increase to modern award minimum wages were increased comparing the index between March 2014 (103.8) and March 2021 (106.5), (bringing the allowance to 80 cents).
 - c. The General Retail Award 2020 was adjusted based on the percentage increase between March 2014 (103.8) and September 2021 (109.7); an increase of 5.68%, which had the effect of lifting the Vehicle Allowance in that award to 0.82 cents.⁷
 - d. The modern awards for which minimum wages weren't adjusted until November 2021 were in all cases in group 2 or 3 from the 2019/2020 AWR decision. These awards were increased on the basis of the increase between the index at March 2014 (103.8) and September 2021 (109.7) a 5.68% increase, which lifted vehicle allowances in that group to 0.85.⁸
20. The Annual Wage Review decision for 2021-2022 again determined to apply different increases to apply increases at different times for different awards. Because each adjustment relied on the index figure most recently available at the operative date, small differences in timing produced slightly different percentage outcomes.
21. The ACTU submits the above history is relevant in these proceedings. In circumstances where the AIRC set a common rate for most awards (74 cents) prior to commencement there is no apparent basis for the allowances (at least in those awards that were subject to the common rate at award modernisation) to diverge.
22. Insofar as it may be contended that the divergence reflects deliberate decisions by Expert Panels to delay wage increases the ACTU rejects this framing.
23. It is not immediately apparent that the extent of the implications for expense allowances resulting from differently timed wage increases was ever contemplated in detail by industrial parties. Also, whereas there was intent to *delay* wage increases in different modern awards during COVID-19, workers affected by Vehicle Allowances were subject to a compounding disadvantage in that, they had to wait longer for an adjustment to the allowance, and, when awarded, the outcome in many awards lower than it otherwise would have been, had the usual

⁶ *Annual Wage Review 2020-2021* [2021] FWCFB 3497 [298]-[299] and *Re Expense Related Allowances* [2021] FWCFB 3497.

⁷ See for example order 1 in Determination PR729444 regarding the *General Retail Award 2020*.

⁸ See for example order 3 in Determination PR729491 regarding the *Airline Operations Ground Staff Award 2020*.

cycle been followed, or at least the effect that it has been lower over time (0.98 cents instead of 0.99 cents) in many cases.

24. Although the amount is only one cent, this is not insignificant in the context of a per km rate, especially, where the disadvantage has now been baked in for almost six years.
25. The ACTU submits that this issue can and should be resolved in these proceedings and that this be by rounding the 0.98 cent allowances up to 0.99 prior to any other increase awarded as part of these proceedings (if any).
26. On ACTU's revised position, this would mean all applicable allowances currently set at 0.98 or 0.99 cents per km are raised to \$1.07 per km.

Australian Council of Trade Unions

17 May 2026