



## President's statement

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### Fair Work Amendment (Fairer Fuel) Act 2026

### Application by the TWU and ARTIO for a road transport contractual chain order re fuel prices – MS2026/1

Justice Hatcher, President

Sydney, 2 April 2026

### Introduction

[1] The *Fair Work Amendment (Fairer Fuel) Act 2026 (Cth)* (**Fairer Fuel Act**) received Royal Assent on 1 April 2026. The Fairer Fuel Act amends the *Fair Work Act 2009 (Cth)* (**FW Act**) to enable the Commission to make, vary and revoke road transport contractual chain orders (**RTCCOs**) in an expedited manner in response to an application determined by the Minister to be an 'emergency application'. The amendments commence today, 2 April 2026.

[2] The Transport Workers' Union of Australia (**TWU**) and the Australian Road Transport Industrial Organization (**ARTIO**) have today jointly made an application for a RTCCO which seeks to deal with the issue of rising fuel costs (**Joint Application**). The application states:

This application ... is made on an urgent basis, seeks orders to come into effect as soon as permissible, deals specifically with fuel costs and contemplates weekly changes to the cost recovery rate to reflect fluctuating fuel costs.

[3] It is apparent that the Joint Application contemplates that it may be the subject of consideration by the Minister for an 'emergency application' determination under the Fairer Fuel Act amendments.

[4] This Statement outlines the Commission's amended functions as a result of the Fairer Fuel Act and the approach the Commission intends to take with respect to the Joint Application.

### Regulated worker functions and RTCCOs

[5] The *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024* inserted into the FW Act provisions relating to regulated workers, including functions for the Commission in making, varying and revoking minimum standards orders and RTCCOs. These regulated worker provisions were explained in my [Statement](#) issued 27 February 2024 and the Commission's [implementation report](#) published 12 April 2024.

[6] In summary, Chapter 3B of the FW Act empowers the Commission to make RTCCOs and guidelines that set standards for road transport contractors, road transport employee-like workers and other persons in a road transport contractual chain. When considering making a RTCCO, the Commission must consult affected entities. Before

making a RTCCO, the Commission must publish a notice of intent stating that the Commission proposes to make a RTCCO and must publish a draft of the proposed RTCCO. The Commission must ensure that affected entities have a reasonable opportunity to make written submissions in relation to the draft order and must consult the Road Transport Advisory Group.

[7] Under ss 536NT(1)–(3), a RTCCO comes into operation on a day specified in the order, which usually must not be earlier than 12 months after the notice of intent and draft of the proposed order were published by the Commission (or six months if the circumstances urgently require it).

[8] The Commission is currently dealing with three applications for a RTCCO (MS2024/4, MS2025/1 and MS2025/4). Documents relevant to each of these applications are published on the [Commission's website](#) and a subscription service is used to update interested persons as these matters progress.

### **Fairer Fuel Act amendments**

[9] The Fairer Fuel Act amends the FW Act to provide for the Minister to determine that an application to make a RTCCO (or to vary or revoke an existing RTCCO) is an 'emergency application' if the Minister is satisfied there are events or circumstances having, or 'likely to imminently have, a significant national negative impact on the road transport industry', and that it is in the public interest to make the determination. This power to determine that an application is an 'emergency application' applies to applications made on or after commencement of the amendments (and so does not apply to the three applications for RTCCOs the Commission is currently dealing with).

[10] An emergency application is not subject to my Directions prioritising the Commission's work under Parts 3A-2 and 3B-2 of the FW Act.

[11] Upon receipt of an application the Minister has determined is an emergency application, the Commission must consider making a 'time-sensitive' RTCCO. The content of a time-sensitive RTCCO is limited to terms 'relating to the event or circumstance, or series of events or circumstances, to which the order relates', together with the usual compulsory terms for a RTCCO.

[12] Rather than the usual 12-month consultation period (or six months in urgent circumstances), the minimum period of consultation on a time-sensitive RTCCO is a period that the Commission 'considers is reasonable'. The Commission remains required to ensure affected entities have a reasonable opportunity to make written submissions in relation to a published draft of the order.

[13] The Fairer Fuel Act also expedites the processes relating to suspension of a time-sensitive RTCCO by the Minister or on application to the Commission and for consultation when the Commission is determining whether to vary or revoke a deferred time-sensitive RTCCO.

## The Joint Application

[14] The current difficulties in the road transport industry caused by the fuel price spike arising from the Middle East conflict have already been the subject of consideration by the Commission. In particular, Vice President Gibian has conducted conferences with stakeholders on 18 and 25 March 2026 and published a Statement in respect of the issues on 19 March 2026. It became apparent from these conferences that an application for a RTCCO to address the fuel price issue was likely to be made in the near future. On 1 April 2026, in contemplation of the Fairer Fuel Act shortly coming into effect, Vice President Gibian and I conducted a consultation meeting with the TWU and ARTIO to discuss the practicalities of dealing with such an application on a potentially expedited basis.

[15] As anticipated, the Joint Application has now been made. Its purpose is described in the application as follows:

The proposed [RTCCO] provides an appropriate safety net of minimum standards by setting out, in a clear and simple manner, fair and relevant terms and obligations to ensure that regulated road transport businesses, digital labour platform operators and regulated workers are paid a rate or rates for the performance of work under the contract or arrangement that achieves cost recovery for Fuel.

The transport industry is facing unprecedented increases in fuel prices, which are threatening the viability of transport businesses across the industry. It is essential that immediate action is taken to address this issue and that it is treated as an emergency, given the potential harm that any large-scale disruption may cause to regulated workers, the persons or bodies who rely on their services and the Australian economy at large.

Requiring that the rate or rates are reviewed at least weekly will ensure that regulated workers can continue to meet a cost that is consistently increasing at a rapid rate and allow workers to achieve cost recovery. Regulated workers are particularly vulnerable to sudden, extreme increases in the price of Fuel as the vast majority of such workers are necessarily required to purchase fuel at least weekly, if not more often, to perform their obligations under their services contracts. Without provision for cost recovery for fuel, there is real cause for concern that competition among industry participants will be severely harmed as regulated workers, and regulated road transport businesses, pause operating or cease operating entirely.

The requirement that both primary and secondary parties conduct rate reviews, and that both secondary parties and regulated workers be paid a cost recovery rate for fuel, recognises that secondary parties also face an economic burden from the increased fuel prices. It is necessary for this cost to be shared by primary parties as it recognises the economic power of primary parties in the contract chain and avoids unreasonably concentrating the adverse impacts of fuel price increases on some, but not all, industry participants.

[16] Having regard to the above matters and taking judicial notice of the current state of affairs concerning fuel prices and the economy arising from the Middle East conflict, the Commission will treat the Joint Application as both a major case and one having priority (FW Act s 582(4D)). The hearing and determination of the application will be expedited as far as practicable. However, whether this objective can be achieved is, for the reasons earlier explained, ultimately dependent upon the Minister determining that the application has emergency status.

[17] There are a number of initial steps which the Commission will take to begin dealing with the application that do not require the Minister to have determined that the application is an ‘emergency application’. These are as follows:

- (1) The Commission will notify interested persons of the Joint Application by subscription service.
- (2) A major case webpage has been established on the Commission’s website as the means for communicating developments in the matter to interested parties.
- (3) An Expert Panel for the road transport industry to deal with the application is constituted in accordance with s 617(10B)(da) of the FW Act. This panel shall be comprised of Vice President Asbury, Vice President Gibian and myself.
- (4) The Panel will conduct an initial hearing on an urgent basis to consider whether it should publish a notice of intent to make a RTCCO and a draft order under s 536PG of the FW Act and, if it does so, what the terms of the draft order should be.

[18] The initial hearing will be conducted at **10:00 am (AEST) on Wednesday, 8 April 2026 in Sydney**. Video links using Microsoft Teams will be provided to parties not able to attend in Sydney on request to my chambers: [chambers.hatcher.j@fwc.gov.au](mailto:chambers.hatcher.j@fwc.gov.au). Parties may file any evidence or submissions in writing by **5:00 pm (AEST) on Tuesday, 7 April 2026**, but this is *not* a precondition for participation in the hearing.

**PRESIDENT**