

Form F87E – Application for a road transport contractual chain order

Fair Work Act 2009 (Fair Work Act), section 536PE

This is an application to the Fair Work Commission to make a road transport contractual chain order in accordance with Part 3B-2 of the Fair Work Act.

The Applicants



Choose one of the following.

The person making this application (Applicant) is:

- an organisation that is entitled to represent the industrial interests of one or more persons in a road transport contractual chain
- a regulated business in a road transport contractual chain
- a person who is a primary party to the first contract or arrangement in a road transport contractual chain
- the Minister

Provide the following information about the Applicant:

Legal name of Applicant	Transport Workers' Union of Australia		
Applicant's ACN (if a company)			
Applicant's trading name or registered business name (if applicable)	Transport Workers' Union of Australia		
Applicant's ABN (if applicable)	18 559 030 546		
Contact person	Lorraine Biviano		
Postal address	Level, 447 Kent Street		
Suburb	Sydney		
State or territory	NSW	Postcode	2000
Phone number	0419 302 121 / (02) 8114 6576		
Email address	lorraine.biviano@twu.com.au		

Does the Applicant need an interpreter?



If the Applicant has trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help in your language](#) on our website.

Yes – Specify language

No

Does the Applicant require any special assistance at the hearing or conference (for example a hearing loop)?

Yes – Please specify the assistance required

No

Does the Applicant have a representative?



A **representative** is a person that is representing the Applicant. This might be a lawyer or paid agent, a union or employer organisation, or a not-for-profit association or body that provides support, advice or advocacy in relation to this kind of application or case. The Applicant does not need to have a representative.

Yes – Provide representative’s details below

No


Representative’s details



These are the details of the person that is representing the Applicant (if any).

Name of person			
Firm, company or organisation			
Representative’s ABN (if applicable)			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	

Is the representative a lawyer or paid agent?

	The Applicant will need permission to be represented by a lawyer or paid agent in a conference or hearing that is conducted by a Commission Member. Our lawyers and paid agents practice note explains when you need to ask for permission to be represented.
<input type="checkbox"/> Yes – please select:	<input type="checkbox"/> Lawyer <input type="checkbox"/> Paid agent
<input type="checkbox"/> No	

Provide the following information about the Applicant:

Legal name of Applicant	Australian Road Transport Industrial Organization		
Applicant’s ACN (if a company)			
Applicant’s trading name or registered business name (if applicable)	Australian Road Transport Industrial Organization		
Applicant’s ABN (if applicable)	63 734 697 902		
Contact person	Peter Anderson		
Postal address	PO Box 5		
Suburb	South Melbourne		
State or territory	Victoria	Postcode	3205
Phone number	0418 572 727 / (03) 9646 8590		
Email address	peter@vta.com.au		

Does the Applicant need an interpreter?



If the Applicant has trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help in your language](#) on our website.

Yes – Specify language

No

Does the Applicant require any special assistance at the hearing or conference (for example a hearing loop)?

Yes – Please specify the assistance required

No

Does the Applicant have a representative?



A **representative** is a person that is representing the Applicant. This might be a lawyer or paid agent, a union or employer organisation, or a not-for-profit association or body that provides support, advice or advocacy in relation to this kind of application or case. The Applicant does not need to have a representative.

Yes – Provide representative’s details below

No

Representative’s details



These are the details of the person that is representing the Applicant (if any).

Name of person			
Firm, company or organisation			
Representative’s ABN (if applicable)			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	

Is the representative a lawyer or paid agent?

	The Applicant will need permission to be represented by a lawyer or paid agent in a conference or hearing that is conducted by a Commission Member. Our lawyers and paid agents practice note explains when you need to ask for permission to be represented.		
<input type="checkbox"/> Yes – please select:	<input type="checkbox"/> Lawyer		
	<input type="checkbox"/> Paid agent		
<input type="checkbox"/> No			

1. Classes of persons to be covered

1.1 Describe the classes of persons in a road transport contractual chain to be covered by the proposed road transport contractual chain order.



See sections 536PE(2), 536PE(3) and 536PM(3) of the Fair Work Act. A class may be described by reference to a particular industry or sector, part of an industry or sector, or particular kinds of work. Persons other than regulated road transport contractors and road transport employee-like workers may be described by name or by class. In your answer, consider describing how the persons to be covered meet the definition of ‘in a road transport contractual chain’ in section 15RA of the Fair Work Act. The classes of persons to be covered will include primary parties, secondary parties, and regulated road transport contractors and/or road transport employee-like workers (see section 15RA(2)).

The parties to be covered by the proposed road transport contractual chain order (**CCO**) are described in order **B(4)** and defined in order **A(1)** of the draft CCO which is annexed to this application and marked “**Attachment A**”. They include:

- **Primary parties:** persons who are party to the first contract or arrangement in the road transport contractual chains the subject of the proposed order. Primary parties include (but are not limited to) persons referred to in the road transport industry as “clients” in a road transport contractual chain and the persons on whose behalf work is ultimately being performed. Such persons would include (by way of example) retailers like Aldi; and
- **Secondary parties:** persons who are a party to a subsequent contract or arrangement in the road transport contractual chains the subject of this order, being a contract or arrangement under which work is performed for the secondary party by a regulated road transport contractor in the contractual chains the subject of this order;
- Regulated road transport contractors and road transport employee-like workers who perform work under a services contract in the contractual chains the subject of this order for the purposes of s 15RA(2)(c) of the FWA; and
- regulated road transport businesses; and
- digital labour platform operators.

2. Work to be covered

2.1 Describe the work to be covered by the proposed road transport contractual chain order.



See section 536PM(1)(a) of the Fair Work Act. The coverage terms of the order must include the work in the road transport industry covered by the order.

The work to be covered by the proposed CCO for the purposes of s 536PM(1)(a) of the FWA is set out in order **B(2)** of the annexed draft CCO and defined in order **A(1)**. It is:

- the distribution and/or relocation by road of new or used vehicles, where the vehicle itself is

required to be driven from one location to another for the purposes of delivery and/or relocation of the vehicle (**car carrying**);

- the transport of cash and other valuable (**cash in transit**);
- the part of the road transport industry involving the transport by road of goods, wares, merchandise, material or anything whatsoever, whether in a raw or natural state, wholly or partly manufactured state, or of a solid or liquid or gaseous nature or otherwise, other than where the work is on demand delivery work (**general road transport**);
- the transport by road of meat from abattoirs, slaughterhouses, and wholesale meat depots (**meat transport**);
- the transport on public roads of milk and cream in bulk, and the transport, vending and distribution of milk, cream, butter, cheese and their derivatives (including fruit juices, yoghurt and custard), other than the transport of milk, cream, butter, cheese and their derivatives (including fruit juices, yoghurt and custard) defined as on demand delivery work in this order (**milk and cream transport**);
- the transport by road of crude oil or gas condensate (**oil and gas transport**);
- the transport of passengers by motor vehicle, limousine, car hire, bus or coach (**passenger vehicle transportation**);
- the transport by road of quarried materials (**quarried materials transport**);
- the transportation of any waste material whatsoever, whether solid or liquid, organic, biological, medical, raw or natural, wholly or partly manufactured, decomposed or partly decomposed or in any other state or form and including all domestic, trade and industrial waste (**waste transport**).

The TWU seeks that certain work not be covered by the proposed CCO. An exception is made for on demand delivery work in the order, as set out in order **B(3)** and defined in **A(1)**:

- **B(3)**: This order does not cover on demand delivery work.
- **A(1): On demand delivery work** – means services performed by an employee-like worker via a digital labour platform that involve the collection of and/or shopping for and/or selection and/or purchase of goods or consumables of no more than 8 separate orders in a single engagement, for delivery as soon as practicable to the ultimate consumer. On demand delivery includes (but is not limited to) the collection of such goods and consumables:
 - i. from a facility that is not open to the public and which is used exclusively for online orders and/or dispatches, unless the facility is adjacent to, or in the immediate vicinity of a business that offers the goods or consumables for sale or conducts the retail sale

- or hire of goods and consumables for personal, household or business consumption;
or
 - ii. from a standalone distribution or warehouse facility that is not open to the public; or
 - iii. by the employee-like worker using a vehicle with a carrying capacity of more than 1 tonne.
- **A(1): Consumables** - food, beverages, and liquor, including items packaged, sold or served in such a way to allow them to be consumed away from the point of sale.
 - An exception is also made at **B3(b)** and the proposed CCO does not impose obligations or confer rights on persons who are passengers who are transported by motor vehicle, limousine, car hire, bus or coach.

3. Content of order

3.1 Describe the content of the proposed road transport contractual chain order.



See sections 536PM–536PP of the Fair Work Act for terms that must be included in a road transport contractual chain order. Section 536PQ gives a non-exhaustive list of terms that may be included in a road transport contractual chain order. Section 536PR lists terms that must not be included in a road transport contractual chain order.

A copy of the proposed CCO is annexed to this application. The proposed CCO has a list of defined terms in order **A** and sets out the coverage terms in order **B**. It has terms dealing with fuel cost recovery in order **C**, anti-avoidance in order **D** and dispute settlement in order **E**. These terms, and certain defined terms referred to in orders **C**, **D** and **E** contained in order **A** and which are not set out in response to a previous question in this application are set out below:

A. Definitions

1. ...

Fuel: Any liquid or gaseous energy source used to power vehicles in the road transport industry and includes petroleum and diesel products.

C. Fuel cost recovery

Obligations on primary parties

5. Primary parties who enter into, or have, existing contracts or arrangements with secondary parties to perform Work must conduct weekly reviews with secondary parties about Fuel costs and must amend payment terms to ensure that secondary parties are paid rates for the performance of work that achieve cost recovery for Fuel.

6. When determining rates to be paid to secondary parties to achieve cost recovery for Fuel, primary parties must have regard to the following:
 - (a) weekly reports of the Australian Institute of Petroleum (**AIP**) on the retail cost of Fuel;
 - (b) regional or local costs in areas where the work is performed where Fuel costs differ from AIP reports;
 - (c) current arrangements provided to secondary parties, road transport businesses and regulated workers in relation to Fuel, including for the purchase of Fuel from retailers or from holding tanks in transport yards at discounted or reduced rates.
7. Primary parties must ensure that it is a term of any contract or arrangement between a secondary party and any road transport business, digital labour platform operator or regulated worker in the contractual chain that the secondary party:
 - (i) conduct a weekly review of the price of Fuel, or have agreed mechanisms in place that provide for the conduct of weekly reviews;
 - (ii) take into account in conducting such reviews the matters detailed in clause 6 above; and
 - (iii) pay road transport businesses or regulated workers rates for the performance of work that achieve costs recovery for Fuel.
8. Primary parties must pay secondary parties rates that achieve cost recovery for Fuel determined in accordance with clauses 5-6 above.

Obligations on secondary parties

9. Secondary parties who engage regulated road transport businesses, digital labour platform operators or regulated workers to perform Work must conduct weekly reviews with those regulated road transport businesses, digital labour platform operators or regulated workers about Fuel costs and must amend payment terms to ensure that those road transport businesses, digital labour platform operators or regulated workers are paid rates that achieve costs recovery for Fuel.
10. When determining rates to be paid to road transport businesses, digital labour platform operators or regulated workers to achieve cost recovery for Fuel, secondary parties must have regard to the following:
 - (a) weekly reports released by the Australian Institute of Petroleum (**AIP**) about the retail cost of Fuel;

- (b) regional or local costs in the areas where the work is performed and where Fuel costs differ from AIP reports;
 - (c) current arrangements provided to regulated road transport businesses, digital labour platform operators or regulated workers in relation to Fuel, including for the purchase of Fuel from retailers, or from holding tanks in transport yards, at discounted rates.
11. Secondary parties must pay regulated road transport businesses, digital labour platform operators or regulated workers the rate or rates that achieves cost recovery for Fuel determined in accordance with clauses 9-10 above.
12. Secondary parties must ensure that it is a term of any contract or arrangement between a secondary party and any road transport business, digital labour platform operator or regulated worker in the contractual chains that the secondary party:
- (i) conduct a weekly review of the price of Fuel; and
 - (ii) take into account the matters detailed in clause 10 above;
 - (iii) pay such road transport businesses, digital labour platform operator, or regulated workers rates for the performance of work that achieve costs recovery for Fuel.

D. Anti-avoidance and savings provision -

13. Primary parties and secondary parties to contracts or arrangements in contractual chains must not, directly or indirectly, take action or cause action to be taken, that has the purpose or effect of offsetting, neutralising or negating, in whole or in part, any increase in rates determined under this Order in relation to Fuel.
14. Without limiting cl 13 above, a primary or secondary party must not:
- (a) enter into or give effect to any such arrangement;
 - (b) impose, apply or enforce any deductions, set offs, offset or any other adjustment that reduces pay rates for other components of remuneration; or
 - (c) take any other action that, if given effect, would reduce the practical benefit of a rate increase determined under this Order in relation to Fuel costs.
15. This Order does not affect, and is not intended to affect, rights and obligations in relation to pay rates and variations to pay rates (including in relation to Fuel) in industrial instruments made under State or Territory law. Rights and obligations provided by this Order are intended to operate concurrently with and supplement those provided by industrial instruments made under State or Territory law.

E. Dispute settlement

16. This clause sets out the procedures to be followed in relation to disputes arising about any matters under the order.
17. The parties to the dispute must first try to resolve the dispute as between themselves.
18. If the dispute is unable to be resolved between the parties, a party to the dispute may refer the dispute to the Fair Work Commission.
19. The Fair Work Commission may use any method of dispute resolution permitted by the Act to use that it considers appropriate to resolve the dispute.
20. If the dispute is unable to be resolved, the Fair Work Commission may arbitrate the dispute with the consent of the parties.
21. A road transport business or regulated worker may be represented by an industrial association at any stage of the dispute settlement process including in proceedings before the Fair Work Commission.

Attach additional pages if necessary (which may include a draft of the proposed order).

3.2 Does the proposed road transport contractual chain order overlap with an existing minimum standards order? If so, identify the order.



Section 536PN of the Fair Work Act provides that a road transport contractual chain order must include a provision for how it interacts with a minimum standards order.

No.

3.3 Does the proposed road transport contractual chain order overlap with existing road transport contractual chain guidelines? If so, identify the guidelines.



Sections 536QW(5) and 536QW(6) of the Fair Work Act provide that if the Commission makes a road transport contractual chain order that overlaps with road transport contractual chain guidelines, the Commission must revoke or vary the guidelines with effect from the day the order comes into operation.

No.

4. Minimum standards objective and road transport objective



See the minimum standards objective in section 536JX of the Fair Work Act. The Commission must have regard to the minimum standards objective in deciding whether to make a road transport contractual chain order.

The proposed CCO 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.

The proposed CCO accounts for existing fuel cost recovery arrangements which may exist in regulated road transport businesses. It complements, but does not usurp, such existing arrangements in the industry. The order will apply equally to all parties performing the work described above, and regard must be had to freely and publicly available information published weekly by the Australian Institute of Petroleum. This reduces administrative and compliance costs.

4.1 Explain why the proposed road transport contractual chain order is consistent with the minimum standards objective.

4.2 Explain why the proposed road transport contractual chain order is consistent with the road transport objective.



See the road transport objective in section 40D of the Fair Work Act. The Commission must have regard to the road transport objective in deciding whether to make a road transport contractual chain order.

The proposed CCO takes into account the need for an appropriate safety net of minimum standards for regulated road transport workers and road transport businesses by setting standards that are directed to ensuring the viability of the industry, as well as the safety, sustainability and viability of the conduct of work by regulated road transport contractors and road transport businesses.

Ensuring weekly reviews of fuel prices and requiring payment terms be amended to achieve cost recovery for Fuel is fundamentally important to maintaining sustainable competition and business viability across the transport industry while there continue to be significant daily and weekly changes to Fuel costs.

5. Road transport contractual chain order – particular matters to take into account

5.1 Explain how the proposed order takes into account the commercial realities of the road transport industry, including commercial practices in relation to part load, mixed load, no load, multi-leg and return trips.



Section 536PF(2)(d) of the Fair Work Act provides that in deciding whether to make a road transport contractual chain order, the Commission must have regard to the commercial realities of the road transport industry, including commercial practices in relation to part load, mixed load, no load, multi-leg and return trips.

The proposed CCO attends to the commercial realities of the industry by ensuring that secondary parties, road transport businesses, digital labour platform operators and regulated workers are paid an amount that achieves cost recovery for fuel when fuel prices have been, and are likely to continue, increasing at an unprecedented rate. The proposed CCO also requires primary and secondary parties to account for existing commercial arrangements regarding fuel cost recovery which may exist when determining an appropriate fuel cost recovery rate which will apply and amending their current payment terms.

5.2 Explain how the proposed order will not unduly affect the viability and competitiveness of road transport businesses, owner drivers or other similar persons.



Section 536PF(2)(e) of the Fair Work Act provides that the Commission must not make the road transport contractual chain order unless the Commission is satisfied that the order will not unduly affect the viability and competitiveness of road transport businesses, owner drivers or other similar persons.

The proposed CCO will not adversely impact the viability of road transport businesses, owner drivers or similar persons. Instead, it will enhance and promote the viability of road transport businesses, owner drivers and similar persons by ensuring that such persons can achieve cost recovery for fuel costs at a time when fuel prices have been increasing day by day, week by week, to an unprecedented high.

5.3 Explain how any other current or proposed road transport contractual chain orders and any current or proposed minimum standards orders should be taken into account.



Section 536PF(2)(f) of the Fair Work Act provides that the Commission must take into account any current or proposed road transport contractual chain orders and any current or proposed minimum standards orders in deciding whether to make a road transport contractual chain order.

The TWU has existing applications for minimum standards orders (MS2024/1, MS2024/2, MS2024/3 and MS2025/3), and for contractual chain orders (MS2024/4, MS2025/1 and MS2025/4).

This application can be distinguished from the existing applications as it 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. It is imperative for this proposed CCO to come into operation sooner than the orders sought in the current applications in circumstances where fuel prices are unlikely to reduce in the short term and urgent action needs to be taken.

The minimum standards orders applications deal with similar matters to this contractual chain order application, in that MS2024/1, MS2024/2 and MS2024/3 propose, and MS2025/3 will propose, general cost recovery rates to account for the overall costs of performing work covered by the applications. Because of s 536JF(3)-(4), these minimum standards order applications are unable to come into operation earlier than 12 months, or 6 months in urgent circumstances, after a notice of intent and draft proposed order has been published. The applications, therefore, cannot assist in the current urgent circumstances.

The CCO in MS2025/3 would require the creation of a cost recovery rate. More specifically, the CCO in MS2024/4 would create an obligation for parties to conduct rate reviews, albeit only yearly. However, because of s 536NT(3)-(4), a contractual chain order cannot be made less than 12 months (or 6 months in urgent circumstances) after a notice of intent has been published unless it is a time-sensitive road transport contractual chain order made as a result of an emergency application. As MS2024/4 is currently listed for hearing and the application has not been determined to be an emergency application by the Minister, the order cannot be made soon enough to assist in the current urgent circumstances.

The Fair Work Commission is empowered to make any changes it thinks appropriate to a draft contractual chain order or minimum standards order because of ss 536PJ(1) and s 536KE(1) of the FWA. If the Fair Work Commission decides to make a contractual chain order or minimum standards order sought in an existing application referred to above, and this contractual chain order remains in effect at that time, it may be more appropriate for the Fair Work Commission to take this contractual chain order into account at the time it issues a notice of intent for each matter, and issue a suitably revised draft order in terms it sees fit (if required).

5.4 Explain how the coverage of the proposed order is clear.



Section 536PF(2)(g) of the Fair Work Act provides that the Commission must take reasonable steps to ensure that the coverage of the road transport contractual chain order is clear.

The coverage of the proposed CCO is clear, and the order covers the road transport contractual chains stipulated including road transport businesses, digital labour platform operators, employee-like workers and regulated road transport contractors. In this regard, primary parties, secondary parties, digital labour platform operators, employee-like workers and regulated road transport contractors who are in such contractual chains are covered by the proposed order. The work covered by the proposed CCO is stated simply and defined in clear terms. The work not covered by the proposed CCO is also clearly distinguished from the work it is proposed to cover, and defined in clear and unambiguous terms.

5.5 If the proposed order would cover road transport employee-like workers, explain why it is appropriate for the proposed order to cover those workers.



Section 536PD(4) of the Fair Work Act provides that the Commission must not make a road transport contractual chain order that covers road transport employee-like workers unless the Commission considers it appropriate.

Road transport employee like workers covered by the proposed CCO are affected by increases to fuel prices the same way as regulated road transport contractors. They are also required to bear the cost of increases to fuel prices without a guarantee that they will be able to recover their costs from the rates they earn for the work they perform. It is similarly important that road transport employee-like workers are able to recover their fuel costs from a digital labour platform operator to ensure they are adequately compensated for costs necessarily incurred. It does not change the nature of the engagement of such workers from independent contractors to employees.

Authority to sign and signature



For 'Authority to sign':

- If you are the Applicant—insert 'Applicant'
- If you are an employee of a company or organisation that is the Applicant – insert your position title
- If you are an officer or authorised employee of a registered organisation – insert your position title
- If you are the Applicant's representative and have provided your details in this form – insert 'Representative'.

Authority to sign	National Secretary (TWU) / Secretary/Treasurer (ARTIO)
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Insert your signature, name and the date. If you are completing this form electronically and do not have an electronic signature, type your name in the signature field.

Signature	 
Name	Michael Kaine (TWU) Peter Anderson (ARTIO)
Date	2 April 2026

“Attachment A”

Proposed Contractual Chain Order for Consideration – Fuel Cost Recovery

A. Definitions

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

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

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

Cash in transit – means the transport of cash and other valuables;

Consumables – means food, beverages, and liquor, including items packaged, sold or served in such a way to allow them to be consumed away from the point of sale;

Contractual chain – means one or more of the road transport contractual chains covered by this order;

Digital labour platform operator – has the meaning set out at s 15M of the Act;

Digital labour platform – has the meaning set out in s 15L of the Act;

Employee-like worker – has the meaning set out in s 15P of the Act;

Fuel – refers to any liquid or gaseous energy source used to power vehicles, including petroleum and diesel products;

General road transport – means the part of the road transport industry involving the transport by road of goods, wares, merchandise, material or anything whatsoever, whether in a raw or natural state, wholly or partly manufactured state, or of a solid or liquid or gaseous nature or otherwise, other than where the work is on demand delivery work;

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

Milk and cream transport – means the transport on public roads of milk and cream in bulk, and the transport, vending and distribution of milk, cream, butter, cheese and their derivatives (including fruit juices, yoghurt and custard), other than the transport of milk, cream, butter, cheese and their derivatives (including fruit juices, yoghurt and custard) where the work is on demand delivery work in this order;

On demand delivery work – means services performed by an employee-like worker via a digital labour platform that involve the collection of and/or shopping for and/or selection and/or purchase of goods or consumables of no more than 8 separate orders in a single engagement, for delivery as soon as practicable to the ultimate consumer. On demand delivery includes (but is not limited to) the collection of such goods and consumables:

- i. from a facility that is not open to the public and which is used exclusively for online orders and/or dispatches, unless the facility is adjacent to, or in the immediate vicinity of a business that offers the goods or consumables for sale or conducts the retail sale or hire of goods and consumables for personal, household or business consumption; or
- ii. from a standalone distribution or warehouse facility that is not open to the public; or
- iii. by the employee-like worker using a vehicle with a carrying capacity of more than 1 tonne;

Order – means this road transport contractual chain order;

Passenger vehicle transportation – means the transport of passengers by motor vehicle, limousine, car hire, bus or coach;

Primary party – means a person who is party to the first contract or arrangement in the road transport contractual chains the subject of this Order. Primary parties include (but are not limited to) persons referred to in the road transport industry as “clients” in a road transport contractual chain and the persons on whose behalf work is ultimately being performed;

Rate review – has the meaning set out in clauses 5-6 and 9-10;

Regulated road transport contractor – has the meaning set out in s 15Q to the Act;

Regulated worker – has the meaning set out at s 15G of the Act;

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

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

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

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

Secondary party – means a person who is a party to a subsequent contract or arrangement in the road transport contractual chains the subject of this Order, being a contract or arrangement under which work is performed for the secondary party by a regulated road transport contractor or a road transport employee-like worker in the contractual chains the subject of this Order;

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

Work – means the work covered by this Order.

B. Coverage

2. This Order covers work in the following sectors of the road transport industry:
 - (a) car carrying;
 - (b) cash in transit;
 - (c) general road transport;
 - (d) meat transport;
 - (e) milk and cream transport;
 - (f) oil and gas transport;

- (g) passenger vehicle transportation;
 - (h) quarried materials transport;
 - (i) waste transport.
3. This Order:
- (a) does not cover on demand delivery work; or
 - (b) does not impose obligations or confer rights on persons who are passengers who are transported by motor vehicle, limousine, car hire, bus or coach.
4. This Order covers the following persons in contractual chains involving the performance of work detailed in (2) above:
- (a) primary parties;
 - (b) secondary parties;
 - (c) road transport businesses;
 - (d) digital labour platform operators;
 - (e) employee-like workers; and
 - (f) regulated road transport contractors.

C. Fuel cost recovery

Obligations on primary parties

5. Primary parties who enter into, or have, existing contracts or arrangements with secondary parties to perform Work must conduct weekly reviews with secondary parties about Fuel costs and must amend payment terms to ensure that secondary parties are paid rates for the performance of work that achieve cost recovery for Fuel.
6. When determining rates to be paid to secondary parties to achieve cost recovery for Fuel, primary parties must have regard to the following:
- (a) weekly reports of the Australian Institute of Petroleum (**AIP**) on the retail cost of Fuel;
 - (b) regional or local costs in areas where the work is performed where Fuel costs differ from AIP reports;
 - (c) current arrangements provided to secondary parties, road transport businesses and regulated workers in relation to Fuel, including for the purchase of Fuel from retailers or from holding tanks in transport yards at discounted or reduced rates.
7. Primary parties must ensure that it is a term of any contract or arrangement between a secondary party and any road transport business, digital labour platform operator or regulated worker in the contractual chain that the secondary party:
- (a) conduct a weekly review of the price of Fuel, or have agreed mechanisms in place that provide for the conduct of weekly reviews;
 - (b) take into account in conducting such reviews the matters detailed in clause 6 above; and
 - (c) pay road transport businesses or regulated workers rates for the performance of

work that achieve costs recovery for Fuel.

8. Primary parties must pay secondary parties rates that achieve cost recovery for Fuel determined in accordance with clauses 5-6 above.

Obligations on secondary parties

9. Secondary parties who engage regulated road transport businesses, digital labour platform operators or regulated workers to perform Work must conduct weekly reviews with those regulated road transport businesses, digital labour platform operators or regulated workers about Fuel costs and must amend payment terms to ensure that those road transport businesses, digital labour platform operators or regulated workers are paid rates that achieve costs recovery for Fuel.
10. When determining rates to be paid to road transport businesses, digital labour platform operators or regulated workers to achieve cost recovery for Fuel, secondary parties must have regard to the following:
 - (a) weekly reports released by the Australian Institute of Petroleum (**AIP**) about the retail cost of Fuel;
 - (b) regional or local costs in the areas where the work is performed and where Fuel costs differ from AIP reports;
 - (c) current arrangements provided to regulated road transport businesses, digital labour platform operators or regulated workers in relation to Fuel, including for the purchase of Fuel from retailers, or from holding tanks in transport yards, at discounted rates.
11. Secondary parties must pay regulated road transport businesses, digital labour platform operators or regulated workers the rate or rates that achieves cost recovery for Fuel determined in accordance with clauses 9-10 above.
12. Secondary parties must ensure that it is a term of any contract or arrangement between a secondary party and any road transport business, digital labour platform operator or regulated worker in the contractual chains that the secondary party:
 - (a) conduct a weekly review of the price of Fuel; and
 - (b) take into account the matters detailed in clause 10 above;
 - (c) pay such road transport businesses, digital labour platform operator, or regulated workers rates for the performance of work that achieve costs recovery for Fuel.

D. Anti-avoidance and savings provision -

13. Primary parties and secondary parties to contracts or arrangements in contractual chains must not, directly or indirectly, take action or cause action to be taken, that has the purpose or effect of offsetting, neutralising or negating, in whole or in part, any increase in rates determined under this Order in relation to Fuel.
14. Without limiting cl 13 above, a primary or secondary party must not:
 - (a) enter into or give effect to any such arrangement;
 - (b) impose, apply or enforce any deductions, set offs, offset or any other adjustment that reduces pay rates for other components of remuneration; or
 - (c) take any other action that, if given effect, would reduce the practical benefit of a rate increase determined under this Order in relation to Fuel costs.
15. This Order does not affect, and is not intended to affect, rights and obligations in relation to pay rates and variations to pay rates (including in relation to Fuel) in industrial instruments made under State or Territory law. Rights and obligations provided by this Order are intended to operate concurrently with and supplement those provided by industrial instruments made under State or Territory law.

E. Dispute settlement

16. This clause sets out the procedures to be followed in relation to disputes arising about any matters under the Order.
17. The parties to the dispute must first try to resolve the dispute as between themselves.
18. If the dispute is unable to be resolved between the parties, a party to the dispute may refer the dispute to the Fair Work Commission.
19. The Fair Work Commission may use any method of dispute resolution it is permitted by the Act to use that it considers appropriate to resolve the dispute.
20. If the dispute is unable to be resolved, the Fair Work Commission may arbitrate the dispute with the consent of the parties.
21. A road transport business or regulated worker may be represented by an industrial association at any stage of the dispute settlement process including in proceedings before the Fair Work Commission.