



FairWork  
Commission

# NOTICE OF INTENT

*Fair Work Act 2009*

s.536PG—FWC to prepare and publish a draft of road transport contractual chain order

## **Application by the Transport Workers' Union of Australia**

(MS2026/1)

JUSTICE HATCHER, PRESIDENT  
VICE PRESIDENT ASBURY  
VICE PRESIDENT GIBIAN

SYDNEY, 14 APRIL 2026

[1] Further to our statement [2026] FWC FB 83 and pursuant to s 536PG of the *Fair Work Act 2009* (Cth), the Fair Work Commission proposes to make a road transport contractual chain order.

[2] The draft of the order the FWC proposes to make is attached to this Notice.



PRESIDENT

**DRAFT ROAD TRANSPORT CONTRACTUAL CHAIN ORDER —  
FUEL COST RECOVERY 2026**

**1. Circumstance in which this Order is made**

This Order relates to the circumstance of the fuel supply chain disruption resulting from, or which continues to be affected by:

- 1.1 the significant reduction in shipping through the Strait of Hormuz; and
- 1.2 conflict in the Middle East.

**2. Definitions**

In this Order:

**Act** means the *Fair Work Act 2009* (Cth).

**Digital labour platform** has the meaning set out in s 15L of the Act.

**Digital labour platform operator** has the meaning set out at s 15M of the Act.

**Fuel** means any liquid or gaseous energy source used to power vehicles for the performance of work in the transport industry, including petroleum and diesel products.

**Increased cost of fuel** means the difference between the cost per litre for the type of fuel used to perform the relevant work in the road transport industry at any given time and the cost as it was on or about 6 March 2026.

**Order** means this road transport contractual chain order.

**Primary party** means a person in a road transport contractual chain as described in s 15RA(2)(a) of the Act.

**Rate** means the contracted, standard, ongoing or usual rate or amount paid by one person covered by this Order to another for the performance of work in the road transport industry at or about 6 March 2026, including an hourly rate, a running rate, a total amount, or any other form of payment or combination of the foregoing.

**Regulated road transport contractor** has the meaning set out in s 15Q 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;

**Road transport employee-like worker** has the meaning set out in s 15RB of the Act.

**Road transport industry** has the meaning set out in s 15S of the Act except that it does not include the cash in transit industry within the meaning of s 15S(1)(d) of the Act.

**Secondary party** means a person in a road transport contractual chain as described in s 15RA(2)(b) of the Act.

**3. Coverage of this Order**

- 3.1 This Order covers all work in the road transport industry.
- 3.2 This Order covers the following persons in road transport contractual chains involving the performance of work in the road transport industry:
- (a) primary parties;
  - (b) secondary parties;
  - (c) road transport businesses;
  - (d) digital labour platform operators in the road transport industry;
  - (e) road transport employee-like workers performing work in the road transport industry; and
  - (f) regulated road transport contractors performing work in the road transport industry.

**4. Obligations on primary and secondary parties**

- 4.1 Primary parties must, within each fortnight or twice per calendar month, adjust the rate they pay to any other primary party for the performance of work in the road transport industry by the amount necessary to ensure that the other primary party recovers the increased cost of fuel from the date of commencement of this Order.
- 4.2 Primary parties in a road transport contractual chain must take reasonable steps to ensure that secondary parties engaging regulated road transport contractors or road transport employee-like workers in the same road transport contractual chain adjust the rate they pay to such regulated road transport contractors or road transport employee-like workers for the performance of work in the road transport industry by the amount necessary to ensure recovery of the increased cost of fuel from the date of commencement of this Order.
- 4.3 Secondary parties must, within each fortnight or twice per calendar month, adjust the rate they pay to any other secondary party, regulated road transport contractor or road transport employee-like worker for the performance of work in the road transport industry by the amount necessary to ensure that the other secondary party, regulated road transport contractor or road transport employee-like worker recovers the increased cost of fuel from the date of commencement of this Order.
- 4.4 The adjustments required under clauses 4.1, 4.2 or 4.3 of this Order may be made by an adjustment to the rate or a component of the rate, the introduction of a fuel increment or levy, or a direct reimbursement or offset of money expended upon the increased cost of fuel, or any combination of these.
- 4.5 Any of the following will constitute satisfaction of the rate adjustment obligations in clauses 4.1, 4.2 or 4.3 of this Order as applicable:
- (a) adjustment of the rate in accordance with any variation to an applicable State or Territory industrial instrument which involves the application of a ‘rise and fall’ formula or cost model to account for or address recovery of the increased cost of fuel;

- (b) adjustment of the rate in accordance with the application of a ‘rise and fall’ formula, cost model or cost benchmark in an applicable collective agreement or contract to account for or address recovery of the increased cost of fuel;
- (c) an ongoing or special arrangement between persons in a road transport contractual chain which adjusts the rate in accordance with an agreed ‘rise and fall’ formula, cost model or other benchmarking methodology to account for or address recovery of the increased cost of fuel.

4.6 For the avoidance of doubt, any rate adjustments implemented before the date of commencement of this Order may be taken into account in satisfaction of the obligations in clauses 4.1, 4.2 or 4.3.

## **5. Commencement, operation and cessation of this Order**

5.1 This Order will take effect on 20 April 2026.

5.2 This Order prevails over any minimum standards order which takes effect while the obligations in clause 4 apply.

5.3 The obligations in clause 4 will cease to apply if the weekly average national terminal gate price for diesel, as measured in the weekly diesel price report of the Australian Institute of Petroleum, falls below \$2.00 per litre.

5.4 This Order will be the subject of a review by the Fair Work Commission after the first month of its operation and then every three months thereafter.

## **6. Dispute settlement**

6.1 This clause sets out the procedures to be followed in relation to disputes concerning the implementation or operation of this Order.

6.2 The parties to the dispute must first try to resolve the dispute as between themselves.

6.3 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.

6.4 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.

6.5 If the dispute is unable to be resolved, the Fair Work Commission may arbitrate the dispute with the consent of the parties.

6.6 Any party to a dispute may be represented by an industrial association at any stage of the dispute settlement process, including in proceedings before the Fair Work Commission.