Member Advice

October 2026

Workplace Relations

Road Transport Contractual Chain Order — Fuel Cost Recovery — 2026: Update on recent developments

Summary

On 16 October 2026, an Expert Panel of the Fair Work Commission (**FWC**) issued a decision in a review of the *Road Transport Contractual Chain Order — Fuel Cost Recovery — 2026* (**Order**).

The FWC has published a notice of intent and draft order, which would have the effect of re-enlivening the substantive obligations under the Order (on a date to be determined), with some variations.

Introduction

We have previously provided updates about the Order made by the FWC in response to sharp fuel price increases associated with the conflict in the Middle East and disruption to shipping through the Strait of Hormuz.

In broad terms, the Order imposed obligations on primary and secondary parties in road transport contractual chains to adjust rates paid for work performed in the road transport industry to ensure recovery of increased fuel costs (**Rate Adjustment Obligation**). It also required primary parties to take 'reasonable steps' to ensure that secondary parties engaging road transport contractors or employee-like workers adjusted the rates paid for the performance of such work by the amount necessary to ensure recovery of increased fuel costs.

Importantly, these obligations applied to businesses in a broad range of industries that utilise road transport services. The obligations were not limited to businesses in the road transport industry itself.

The substantive obligations described above ceased to apply in June 2026, after the weekly average national terminal gate price of diesel fell below $2.00 per litre.

On 26 August 2026, the FWC issued a statement commencing a review of the Order and invited interested parties to file submissions and evidence about its operation and the appropriate next steps. In particular, it invited submissions about whether the substantive obligations in the Order should be re-enlivened, whether the Order should be revoked or whether the Order should be varied in some other way.

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The Australian Industry Group filed detailed submissions on 16 September 2026, 28 September 2026 and 6 October 2026. We also filed a witness statement and appeared in a hearing before the FWC on 9 October 2026. We argued that the Order should be revoked and it should not be re-enlivened in its current form. Our material focussed on the ambiguities found in the Order and the practical challenges associated with complying with it.

The FWC's Decision

The FWC has issued its decision in relation to the review of the Order. It has declined to revoke the Order. Rather, it intends to vary the Order to re-enliven the substantive obligations contained in it, with several amendments that are intended to clarify or modify the obligations. These are set out in the **attached** draft order.

The proposed variations are not yet operative. Interested parties have an opportunity to file submissions in response to the draft variations. The FWC will subsequently make a decision about any issues raised. It is also yet to determine when the obligations will recommence.

The key elements of the FWC's recent decision (including the variations it proposes to make to the Order) are as follows:

- **Adjustment frequency**: Rates would generally need to be adjusted each calendar month. The Order previously required fortnightly or twice monthly adjustments.
- **Existing instruments and arrangements**: Adjustments made to the rates paid in accordance with State or Territory instruments would satisfy the Rate Adjustment Obligation if made at the times those instruments prescribe. Adjustments made to the rates paid in accordance with the application of a rise and fall formula, cost model or cost benchmark in a collective agreement or contract must be implemented each calendar month in order to satisfy the Rate Adjustment Obligation.
- **Agreed fuel levies**: A new clause 4.6(d) would provide that payment of an agreed fuel levy would satisfy the Rate Adjustment Obligation, provided the person incurring the increased fuel cost has been given a copy of the Order, the levy is adjusted at least monthly, and the party paying the fuel levy has taken 'reasonable steps to ensure that the levy is sufficient to ensure that the other person recovers the increased cost of fuel'.
- **Cessation trigger**: The substantive obligations in the Order would cease to operate when the weekly average national terminal gate diesel price remains below $2.00 per litre for four consecutive weeks.

Next steps

Interested parties may make written submissions in relation to the draft by **4:00 pm (AEST) on Friday, 23 October 2026**.

A final determination, including the recommencement date, will follow, after the FWC considers that material.

AFRA Members with any feedback regarding the proposed variations to the Order are encouraged to contact us at their earliest convenience at WRConsultation@australianindustrygroup.com.au.

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Do you require further advice?

For further information or assistance regarding the developments explained in this advice, or to discuss any workplace relations issue, please contact the Australian Industry Group Workplace Advice Line on 1300 55 66 77. Alternatively, please email workplaceadvice@australianindustrygroup.com.au.



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