Road Transport Contractual Chain Order – Fuel Cost Recovery – 2026

Table of Contents

1. Circumstance in which this Order is made 2
2. Definitions 2
3. Coverage of this Order 3
4. Obligations on primary and secondary parties 3
5. Commencement, operation and cessation of this Order 4
6. Dispute settlement 5

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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 section 15L of the Act.

Digital labour platform operator has the meaning set out at section 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 before 6 March 2026.

Order means this time-sensitive road transport contractual chain order.

Primary party means a person in a road transport contractual chain as described in section 15RA(2)(a) and (3) of the Act but does not include a person who is a passenger being transported in a motor vehicle, limousine, hire car, bus or coach.

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 on or before 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 section 15Q of the Act.

Road transport business has the meaning set out in section 15R of the Act.

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

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

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

Secondary party means a person in a road transport contractual chain as described in section 15RA(2)(b) and (3) of the Act.

Small business employer has the meaning set out in section 23 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 **or set** 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 **(or satisfy the obligations in clause 4.1 or 4.4 in one of the ways set out in clause 4.6)** from the date of commencement of this Order.

4.3 Clause 4.2 of this Order shall not apply to a primary party which is a small business employer and which ~~**is not a road transport business**~~ **does not engage road transport contractors or road transport employee-like workers under services contracts, or employ employees to perform work in the road transport industry**.

4.4 Secondary parties must, within each ~~**fortnight or twice per**~~ calendar month, adjust **or set** 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.

4.5 The adjustments required under clauses 4.1, 4.2 or 4.4 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.

4.6 Any of the following will constitute satisfaction of the rate adjustment obligations in clauses 4.1~~, 4.2~~ or 4.4 of this Order as applicable:

(a) adjustment of the rate in accordance with **and at the times or intervals determined by** 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 **so long as the adjustment is implemented each calendar month**;

(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 **so long as the adjustment is implemented each calendar month**.

(d) **payment of a fuel levy that is agreed between persons in the road transport contractual chain provided:**

(i) **the person incurring the increased fuel cost has been given a copy of this Order by the other person;**

(ii) **the fuel levy is adjusted at least each calendar month; and**

(iii) **the person 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.**

4.7 For an arrangement under clause 4.6(c) of this Order, the 'rise and fall' formula, cost model or benchmarking methodology may be applied in a standardised way on the basis of a reasonable averaging of the increased cost of fuel to a group of regulated road transport contractors or road transport employee-like workers engaged by a single road transport business.

4.8 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 4.4.

5. Commencement, operation and cessation of this Order

5.1 This Order will take effect on 21 April 2026.

5.2 This Order prevails over any minimum standards order which takes effect while the obligations in clause 4—Obligations on primary and secondary parties apply.

5.3 The obligations in clause 4—Obligations on primary and secondary parties will cease to **operate** ~~**apply**~~ if the weekly average national terminal gate price for diesel **for four consecutive weeks**, as measured in the weekly diesel price report of the Australian Institute of Petroleum, falls below $2.00 per litre. **The obligations in clause 4 will cease to operate following the fourth consecutive week in which the weekly average national terminal gate price falls below $2.00**.

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.

5.5 **Notwithstanding clause 5.3, the obligations in clause 4—Obligations on primary and secondary parties will again commence operation on [DATE] and continue thereafter until clause 5.3 causes those obligations to cease to operate or the Order is otherwise revoked or varied.**

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 genuinely 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.

NOTE: Complying with a road transport contractual chain order

Section 536NP of the Act provides that a person must not contravene a term of a road transport contractual chain order.

Section 536NP is a civil remedy provision. Section 539 of the Act sets out who may apply to the courts for an order in relation to contraventions of civil remedy provisions and the maximum penalties that are applicable.