



Industrial Relations Amendment (Public Vehicles and Carriers) Bill.

Second Reading

The Hon. HENRY TSANG [Parliamentary Secretary] [6.25 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave not granted.

The DEPUTY-PRESIDENT (The Hon. Kayee Griffin): Order! Ms Sylvia Hale should state her objection more quickly when the Chair puts a question.

The Hon. HENRY TSANG: The Industrial Relations Amendment (Public Vehicles and Carriers) Bill proposes two important amendments to the Industrial Relations Act 1996. To give the House some background, chapter 6 of the Industrial Relations Act provides for a modified industrial relations system for drivers of public vehicles and carriers of goods who are engaged under contracts that are not contracts of employment. Madam Deputy-President, I seek leave to incorporate the remainder of the second reading speech in *Hansard*.

Leave not granted.

Chapter 6 recognises that whilst these drivers are not employees in the true sense, nevertheless they share many of the characteristics of employees and deserve protection from exploitation. I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

Leave not granted.

Taxidivers, van drivers, motorcycle and bicycle couriers, and truck drivers share one characteristic in particular: they lack the bargaining power to achieve reasonable rates of pay and conditions of employment. Our industrial relations system recognises the right of employees to join together and bargain collectively to achieve reasonable outcomes for pay and conditions. But people who work under arrangements that are not employment contracts are generally excluded from the industrial relations system. They are left to bargain individually. Chapter 6 of the Industrial Relations Act 1996 provides a way to regularise outcomes for drivers and principal contractors in New South Wales.

Under chapter 6 the Industrial Relations Commission can make contract determinations, like awards, to determine the rates of pay and conditions under which these drivers are to be engaged. The commission can also approve contract agreements, such as enterprise agreements, between parties in relation to such contracts. However, chapter 6 is not without its challenges. Sections 45 and 45A of the Federal Trade Practices Act 1976 prohibit anticompetitive conduct. Section 51(2) of the Federal Act exempts from this prohibition conduct engaged in pursuant to employment agreements and arrangements—essentially the whole area of industrial relations is exempt. But section 51, as it is generally understood, does not exempt conduct engaged in pursuant to independent contractor agreements and arrangements.

It would seem, therefore, that much of chapter 6 contravenes the Trade Practices Act. However, the Trade Practices Act contains another means for exempting such conduct. Section 51 (1) (b) of the Trade Practices Act provides that the prohibition against anticompetitive conduct does not apply to anything that is done in a State if the thing is specified in and authorised by legislation of that State or by regulation under such legislation. I refer honourable members to the balance of the second reading speech delivered by the Minister in the other House.

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