

Industrial Relations Amendment (Public Vehicles and Carriers) Bill 2003

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

Chapter 6 of the *Industrial Relations Act 1996* (the **Principal Act**) provides for a modified industrial relations system for certain drivers of public vehicles and carriers of goods who are engaged under contracts of bailment or carriage that are not contracts of employment.

The objects of this Bill are:

(a) to extend the application of Chapter 6 to contracts of bailment in relation to taxi-cabs and private hire vehicles regardless of where the bailee plies for hire or transports passengers, and

(b) to continue indefinitely to exclude the application of Part IV of the *Trade Practices Act 1974* (the **Trade Practices Act**) of the Commonwealth and the *Competition Code of New South Wales* (the **Competition Code**) from certain things done in relation to contract determinations and agreements made or approved by the Industrial Relations Commission under Chapter 6.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Industrial Relations Act 1996* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1]–[3] extend the application of Chapter 6 of the Principal Act so that it applies to a contract of bailment in relation to a taxi-cab or private hire vehicle regardless of where the bailee plies for hire or transports passengers. Currently Chapter 6 only has application if the driver plies for hire or transports passengers in a transport district established under the *Transport Administration Act 1988* (generally in the Sydney, Newcastle and Wollongong area).

Schedule 1 [4] omits a sunset provision from section 310A of the Principal Act. Part IV of the Trade Practices Act and the Competition Code prohibit certain restrictive trade practices. However, section 51 (1) (b) of that Act and the Competition Code provide that those prohibitions do not affect anything that is done in a State, if the thing is specified in, and specifically authorised by, an Act passed by the Parliament of that State, or regulations made under such an Act. Section 310A of the Principal Act specifically authorises a number of things for the purposes of section 51 of the Trade Practices Act and the Competition Code. The things authorised relate to the exercise of the Industrial Relations Commission's functions under Chapter 6 of the Principal Act and to things done in relation to contract determinations and agreements made or approved by the Commission under Chapter 6.

The authorisation conferred by section 310A was originally intended to last for 2 years and is due to cease to have effect in December 2003. The proposed amendment removes the expiry provision.

Schedule 1 [5] and [6] insert provisions of a savings and transitional nature in Schedule 4 to the Principal Act.