



New South Wales

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.



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Industrial Relations Amendment (Public Vehicles and Carriers) Bill 2003

No. , 2003

A Bill for

An Act to amend the *Industrial Relations Act 1996* to extend the application of Chapter 6 of that Act and to continue indefinitely to exclude Part IV of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales* from applying to that Chapter; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Industrial Relations Amendment (Public Vehicles and Carriers) Act 2003*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Industrial Relations Act 1996 No 17

The *Industrial Relations Act 1996* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 307 Contract of bailment—meaning

Omit “in a transport district established under the *Transport Administration Act 1988*” from section 307 (1) (a).

[2] Section 307 (1) (b)

Omit “in such a transport district”.

[3] Section 307 (2) (b)

Omit “, in such a transport district,”.

[4] Section 310A Authorisations for purposes of Trade Practices Act 1974 of the Commonwealth

Omit section 310A (4).

[5] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

Industrial Relations Amendment (Public Vehicles and Carriers) Act 2003

[6] Schedule 4, Part 9

Insert at the end of the Part (with appropriate clause number):

**Provision consequent on enactment of Industrial Relations
Amendment (Public Vehicles and Carriers) Act 2003**

If the *Industrial Relations Amendment (Public Vehicles and Carriers) Act 2003* commences after the day that is 2 years after the date of commencement of section 310A:

- (a) the authorisation conferred by section 310A is taken not to have ceased to have effect despite section 310A (4), and
- (b) anything done before the commencement of that Act that would (but for section 310A (4)) have been specifically authorised by this Act for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales* is specifically authorised.