

Legislative Council

Passenger Transport Amendment (Bus Reform) Bill

Schedule of the amendments agreed to in Committee of the Whole
on Thursday 3 June 2004 a.m.

No. 1 Page 5. Insert after line 14:

[11] Section 18 Commercial and non-commercial contracts

Omit “(subject, in the case of school bus services, to the regulations)”
from section 18 (5).

No. 2 Page 6, Schedule 1 [13], proposed section 28B. Insert after line 18:

- (4) A service contract for a regular bus service is taken to include a term to the effect that the holder of the contract must comply with the holder’s obligations under any industrial instrument applicable to the holder concerning the conditions of employment of bus drivers or conductors (or both) as in force from time to time during the term of the contract.
- (5) Any contravention of the term implied in a service contract by subsection (4) may be remedied at law or in equity as though the term were an essential term to which the parties had by contract agreed.
- (6) In this section, *industrial instrument* means:
 - (a) an industrial instrument within the meaning of the *Industrial Relations Act 1996*, or
 - (b) an award or agreement made or entered into in accordance with the provisions of the *Workplace Relations Act 1996* of the Commonwealth.

No. 3 Page 6, Schedule 1 [13], proposed section 28C. Insert after line 22:

- (2) Without limiting subsection (1), the performance standards may include any model performance standards for regular bus services that the Director-General may, by order published in the Gazette, approve from time to time.
- (3) Before the Director-General makes an order under subsection (2) approving a model performance standard, the Director-General must consult with each of the following about the standard:

- (a) the Transport Advisory Group constituted under the *Transport Administration Act 1988*,
- (b) the Bus and Coach Association of New South Wales,
- (c) such other persons or bodies as the Minister may direct.

No. 4 Page 6, Schedule 1 [13], proposed section 28C. Insert after line 22:

- (2) The performance standards are to include standards concerning greenhouse emissions by buses that have been developed by the Director-General following consultation with the NSW Greenhouse Office in the Cabinet Office.

No. 5 Page 12. Insert after line 7:

[22] Section 48 Review of decisions concerning service contracts

Insert at the end of section 48:

- (2) This section does not apply to a decision of the Director-General with respect to a service contract for a regular bus service.

No. 6 Page 16, Schedule 1 [25]. Insert after line 8:

34 Review of decisions under Part 5

- (1) Section 48 (2) (as inserted by the amending Act) does not apply to any decision of the Director-General made in respect of an existing commercial bus service contract or existing non-commercial bus service contract.
- (2) However, Part 5 of the Act does not apply to any of the following decisions of the Director-General made on or after the commencement day in respect of an existing commercial bus service contract or existing non-commercial bus service contract:
 - (a) a decision to enter into a service contract for a regular bus service with another person under Division 3 of Part 3 of the Act (as amended by the amending Act),
 - (b) a decision to terminate the contract under clause 29,
 - (c) any other decision made under this Part (including a decision made under clause 30 or 31).

No. 7 Page 20, Schedule 1 [25]. Insert after line 17:

38 Valuation and acquisition of certain bus service assets

- (1) In this clause:

bus service asset of an existing service provider means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description used in connection with the provision of a regular bus service in the existing service area, but does not include any goodwill.

existing service area of an existing service provider means the region or route of operation (or part of the region or route) for which the provider is to cease to provide a regular bus service.

existing service provider means the holder of an existing commercial bus service contract or existing non-commercial bus service contract who is not to be awarded a new service contract under the provisions of Division 3 of Part 3 (as inserted by the amending Act) to provide a regular bus service for the region or route of operation (or part of the region or route) for which the holder is currently providing a regular bus service under the existing contract.

modification includes addition, exception, omission or substitution.

proposed new service provider means a person to whom the Director-General proposes to award a new service contract under the provisions of Division 3 of Part 3 (as inserted by the amending Act) to provide a regular bus service in the existing service area of an existing service provider.

- (2) An existing service provider who wishes to sell or otherwise dispose of any bus service asset to a proposed new service provider who has refused to acquire it (whether at a particular price or at any price) may apply to the Director-General for the Director-General to make it a condition of the service contract of the proposed new service provider that the provider acquire the asset.
- (3) On any such application, the Director-General may:
- (a) reject the application, or
 - (b) refer the question of the valuation of the bus service assets in question to arbitration under this clause.
- (4) The *Commercial Arbitration Act 1984* applies to any such arbitration subject to this clause and with such modifications as may be prescribed by the regulations.
- (5) Without limiting subclause (4), the regulations may make provision for or with respect to any of the following matters:

- (a) the persons who are qualified to be appointed as arbitrators and the nomination of such arbitrators,
 - (b) the matters that may be considered, or not considered, in making a valuation of bus service assets in an arbitration under this clause.
- (6) Following any such arbitration, the Director-General may (but need not) require the proposed new service provider to acquire any bus service asset that was the subject of the arbitration at the value determined in the arbitration as a condition of any service contract entered into to provide a regular bus service in the existing service area.

Note:

Government amendments Nos 1, 3, 5 & 6

Greens amendments Nos 2 & 4

Shooters Party amendment No. 7