

Ms Emma Wood
Committee Manager
Legislative Assembly
Committee on Transport and Infrastructure
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms Wood,

We are writing to you in response to your request that we provide answers to questions taken on notice during our recent appearance before the Committee as well as responses to some additional questions.

We trust the responses outlined below will assist the Committee in its inquiry into workplace arrangements in the point to point transport industry.

Questions taken on notice

1. Payroll tax receipts

This is a matter for the Office of State Revenue.

2. Section 109 of the Constitution – inconsistency of laws

Has anyone looked at whether the Federal *Independent Contractors Act 2006* makes constitutionally invalid Chapter 6 of the *Industrial Relations Act 1996*?

Section 7(2)(b)(i) of the *Independent Contractors Act 2006* (Cth) expressly provides that the provisions of s7(1) affecting the rights of independent contractors under relevant State laws does not apply to Chapter 6 of the *Industrial Relations Act 1996*.

Section 7 of the *Independent Contractors Act* evinces an intention not to cover the field regarding the matters covered by Chapter 6 so that the latter is not invalidated under s109 of the Constitution and to ensure there is no operative inconsistency.

3. Could you comment on the clause in Australian Capital Territory legislation that will extend the ACT workers compensation scheme to rideshare drivers?

This is a matter for the Department of Finance, Services and Innovation.

Additional questions

- 4. At the hearing it was mentioned that there are recent developments in Victoria in relation to setting up similar arrangements to Chapter 6 of the Industrial Relations Act 1996. Could you elaborate on the developments in Victoria and of any other jurisdictions you may be aware of?**

Following a Victorian independent inquiry chaired by Professor Alan Fels AO the Taxi Services Commission became a statutory authority responsible for regulating the commercial passenger vehicle industry on 1 July 2013. The Commission regulates the industry in accordance with various acts, regulations and other legislative instruments.

It is understood the Commission's role includes regulating taxi driver agreements specifying that taxi drivers must receive at least 55% of fare revenue. Other issues covered as mandatory conditions in a driver agreement include rights to records, the taxi owner responsibility for fuel, maintenance and insurance costs, (unpaid) leave entitlements, dispute resolution processes and arrangements for a bond that the driver may pay the taxi owner.

These conditions are mandatory, even if they are not included in a written agreement between the taxi owner and the taxi driver. The implied conditions are specified under s162L of the *Transport (Compliance and Miscellaneous) Act 1983* (Vic).

- 5. Do you consider that Chapter 6 of the Industrial Relations Act 1996 should apply equally to all participants in the point to point transport industry? Have you received any complaints concerning the application of Chapter 6 across the industry?**

NSW Industrial Relations does not have a view on this issue.

NSW Industrial Relations is not aware of receiving any complaints specifically concerning the application of Chapter 6 across the point to point transport industry.

- 6. Some submission makers have suggested that a national approach to the issues that the sharing economy now brings to the point to point transport industry should be explored. Are you aware of any developments between jurisdictions across Australia?**

NSW Industrial Relations is not aware of any developments between the jurisdictions about a national approach to the issues that the sharing economy now brings to the point to point transport industry.

- 7. The Transport Workers Union submitted that a portable leave entitlement system should be introduced in the point to point transport industry and a workplace ombudsman created to oversee the system. What are your thoughts on this proposal?**

NSW Industrial Relations does not have a view on this issue.

Yours faithfully,



Vicki Telfer
Executive Director
NSW Industrial Relations

16/8/16



Barbara Wise
Director
Point to Point Implementation
Transport for NSW

