

Passed by both Houses



New South Wales

# Industrial Relations Amendment (Transport Sector Gig Workers and Others) Bill 2025

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney,*

*, 2025*



New South Wales

## **Industrial Relations Amendment (Transport Sector Gig Workers and Others) Bill 2025**

Act No \_\_\_\_\_, 2025

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An Act to amend the *Industrial Relations Act 1996* to extend certain provisions relating to contracts of carriage to transport sector gig workers; make further provision about contracts of bailment and contracts of carriage; and for related purposes.

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *Industrial Relations Amendment (Transport Sector Gig Workers and Others) Act 2025*.

**2 Commencement**

This Act commences as follows—

- (a) for Schedules 1[3], in so far as it relates to the omission of section 309(4)(c)–(e), [4]–[7] and [21] and 2—on the day that is 6 months after the date of assent to this Act,
- (b) for Schedule 1[2], [3], in so far as it relates to the omission of section 309(4)(b) and (i), and [8]—on the day that is 18 months after the date of assent to this Act,
- (c) otherwise—on the date of assent to this Act.

## **Schedule 1      Amendment of Industrial Relations Act 1996 No 17**

### **[1] Section 305A**

Insert before section 306—

#### **305A Objects of chapter**

The objects of this chapter are as follows—

- (a) to promote fair and efficient arrangements for contracts of carriage and contracts of bailment,
- (b) to promote fair and efficient arrangements in contractual chains affecting contracts of carriage and contracts of bailment.

### **[2] Section 309 Contract of carriage—meaning**

Insert after section 309(3)—

- (3A) The Commission constituted by a Presidential Member may also declare particular contracts, or contracts of a class, to be contracts of carriage.
- (3B) The Commission must not make a declaration under subsection (3A) unless it is satisfied—
  - (a) the contract or class of contracts is for the work of transporting persons or goods, or both, and
  - (b) it is appropriate to do so having regard to the following matters—
    - (i) whether the person who is to transport the persons or goods under the contract or class of contracts has low bargaining power in negotiations in relation to the contract under which the work is performed,
    - (ii) whether the person receives remuneration at or below the rate of an employee performing comparable work,
    - (iii) whether the person has a low degree of authority over the performance of the work,
    - (iv) whether the terms contained in the contract or class of contracts would be unfair to, or operate unfairly in relation to, the person,
    - (v) whether the terms of the contract or class of contracts taken as a whole are reasonable terms,
    - (vi) whether the person has other characteristics prescribed by the regulations,
    - (vii) other matters the Commission considers relevant,
    - (viii) other matters prescribed by the regulations.
- (3C) To avoid doubt, a contract may be the subject of a declaration under subsection (3A) even if the contract is not a contract of carriage or a contract specified in section 310B(2).
- (3D) A contract determination or contract agreement, as in force on the making of a declaration under subsection (3A), does not apply to the contract or class of contracts subject to the declaration unless the contract determination or contract agreement is varied to specifically include the contract or the class of contracts.
- (3E) The Commission may, on its own motion or on application in accordance with this Act, vary a contract determination or contract agreement to specifically

include a contract or class of contracts subject to a declaration under subsection (3A).

**[3] Section 309(4)(b)–(e) and (i)**

Omit the paragraphs.

**[4] Section 309(4)(h)**

Omit “production, or”. Insert instead “production.”.

**[5] Section 309(5)**

Insert after section 309(4)—

(5) In this section—

*person directly involved in the business* means—

- (a) if the carrier is not a partnership or body corporate—the carrier, or
- (b) if the carrier is a partnership—a partner, or
- (c) if the carrier is a body corporate—a person referred to in section 309(1)(c)(i), (ii) or (iii).

*prescribed circumstances* means the following circumstances—

- (a) where the carrier is not a partnership or body corporate—
  - (i) the carrier’s business of transporting goods does not own or operate more than a total of 3 motor vehicles and bicycles, and
  - (ii) the person directly involved in the business is engaged in driving or riding on one of the motor vehicles or bicycles in the course of the business,
- (b) where the carrier is a partnership—
  - (i) the partnership’s business of transporting goods does not own or operate more than a total of 3 motor vehicles and bicycles, and
  - (ii) a person directly involved in the business is engaged in driving or riding on one of the motor vehicles or bicycles in the course of the business,
- (c) where the carrier is a body corporate—
  - (i) the body corporate’s business of transporting goods does not own or operate more than a total of 3 motor vehicles and bicycles, and
  - (ii) a person directly involved in the business is engaged in driving or riding on one of the motor vehicles or bicycles in the course of the business,
- (d) where the motor vehicle or bicycle is driven or ridden on by a person who is employed or engaged, whether or not under a contract of employment or contract for services or by the carrier, to take the place of a person directly involved in the business who is—
  - (i) absent, if the absence is a kind specified for this section in a contract determination or contract agreement, or
  - (ii) sick, or
  - (iii) on annual leave, or
  - (iv) otherwise reasonably unavailable,
- (e) other circumstances prescribed by the regulations.

**[6] Section 310 Principal contractor—meaning**

Omit “and (b)” from section 310(3).

**[7] Section 310(4) and (5)**

Insert after section 310(3)—

- (4) To avoid doubt, subsection (2) does not apply to a carrier referred to in section 309(5), definition of *prescribed circumstances*, paragraph (a).
- (5) For this section, a reference to goods includes a reference to persons.  
**Note—** See sections 309(3B)(a) and 310B(2).

**[8] Sections 310B and 310C**

Insert after section 310A—

**310B Extension of application of chapter to certain transport sector gig worker contracts**

- (1) This chapter also applies to a contract specified in subsection (2) as if it were a contract of carriage.
- (2) For subsection (1), a contract is specified if it is a contract for the transportation of persons or goods, or both, by a person by means of a motor vehicle or bicycle, but only if the contract is arranged, allocated or facilitated—
  - (a) through a digital labour platform, or
  - (b) by a person providing a booking service, within the meaning of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.
- (3) For this chapter, in relation to a contract referred to in subsection (2), the *principal contractor* is the following person as relevant—
  - (a) the operator of the digital labour platform,
  - (b) the person providing the booking service.
- (4) To avoid doubt—
  - (a) this section does not apply to a contract of bailment, and
  - (b) it is irrelevant that the person is also a party to another contract, including—
    - (i) a contract of carriage, or
    - (ii) a contract taken to be a contract of carriage under this section.
- (5) In this section—  
*digital labour platform*—see section 310C.  
*goods*—see dictionary.

**310C Meaning of “digital labour platform”**

- (1) A *digital labour platform* means an online-enabled application, website or system operated to arrange, allocate or facilitate the provision of transport services by persons, where—
  - (a) the operator of the application, website or system—
    - (i) engages persons directly or indirectly through or by means of the application, website or system, or

- (ii) acts as an intermediary for or on behalf of at least 2 distinct but interdependent sets of users who interact with the persons or the operator via the application, website or system, and
- (b) one or more of the following processes payments referable to the work performed by the independent contractors—
  - (i) the operator of the application, website or system,
  - (ii) an associated entity, within the meaning of the *Corporations Act 2001* of the Commonwealth, section 50AAA, of the operator,
  - (iii) a person contracted, whether directly or through one or more interposed entities, by the operator or an associated entity of the operator to process the payments.
- (2) Despite subsection (1), a digital labour platform—
  - (a) includes an online-enabled application, website or system prescribed by the regulations for this section, but
  - (b) does not include an online-enabled application, website or system prescribed by the regulations for this section.
- (3) For this section—
  - (a) an online-enabled application, website or system may be specified by name or by inclusion in a specified class or specified classes, and
  - (b) an online-enabled application, website or system may be specified for all forms of digital platform work or for specified forms of digital platform work.

**[9] Section 313 Jurisdiction of Commission with respect to contracts of carriage**

Omit section 313(2) and (3). Insert instead—

- (2) The Commission must, when making a contract determination under this section, consider including provisions relating to the following—
  - (a) rates of remuneration, including—
    - (i) payment of allowances instead of annual or other holidays, sick leave or long service leave, and
    - (ii) payment methods and periods, cost recovery, ensuring a fair return on financial risk and capital investment and the value of entitlements that would otherwise apply to employees,
  - (b) record keeping,
  - (c) training and skill development, including relevant industry accreditation,
  - (d) adequate consultation and dispute resolution,
  - (e) ensuring access to proper representation by an association of contract carriers, including workplace rights inductions and workplace delegate leave,
  - (f) the attraction and retention of contract carriers.
- (3) The Commission constituted by a Presidential Member may, in relation to contracts of carriage, inquire into any matter in a contractual chain and make a contract determination in relation to remuneration and other conditions in the contractual chain.
- (4) The Commission must not exercise a function under subsection (3) if, in the Commission's opinion, the exercise would interfere with the reasonable

commercial arrangements of the parties to a contract or arrangement in a contractual chain.

**Note**— Section 317(3) provides that the Commission may, in a contract determination or by a subsequent order, provide that the contract determination is binding on the successors of a principal contractor.

**[10] Section 314 Jurisdiction with respect to reinstatement of contracts**

Insert after section 314(2)—

- (2A) To avoid doubt, the Commission may make a contract determination with respect to the reinstatement of a contract of bailment or contract of carriage that has been terminated, including the reinstatement of the following—
- (a) a part of a contract of carriage or contract of bailment, including a contract where the carrier uses multiple vehicles,
  - (b) a contract which has been declared to be a contract of carriage by the Commission under section 309(3A).
- (2B) This section does not apply to the following—
- (a) a person who was protected from unfair deactivation, within the meaning of the *Fair Work Act 2009* of the Commonwealth, section 536LD, at the time the contract of bailment or contract of carriage was terminated (a **protected person**),
  - (b) a person who would be a protected person, except that the person has been performing the work referred to in the *Fair Work Act 2009* of the Commonwealth, section 536LD(c) on a regular basis, within the meaning of the *Fair Work (Digital Labour Platform Deactivation Code) Instrument 2024*, section 18, for a period of less than 6 months.

**[11] Section 317 Binding force of determination**

Insert after section 317(2)—

- (3) Without limiting subsection (1), the Commission may, in a contract determination or by a subsequent order, provide that the contract determination is binding on the successors of a principal contractor.
- (4) Subject to the exemptions and conditions that the Commission directs, a contract determination is binding on all parties in the contractual chain to which the determination relates.

**[12] Section 321A**

Insert after section 321—

**321A Applications to make contract determinations—proposed Fair Work Commission minimum standards orders pending**

- (1) This section applies if—
  - (a) an application has been made to the Commission under this part (a **Part 2 application**) in relation to a carrier or group of carriers, and
  - (b) an application has been made, but has not been determined, for an employee-like worker minimum standards order under the *Fair Work Act 2009* of the Commonwealth, section 536JZ (an **employee-like MSO application**) that has a reasonable likelihood of applying to the same carrier or group of carriers.
- (2) Despite this part, the Commission, when dealing with the Part 2 application, must—



- (a) have regard to the employee-like MSO application, and
- (b) without limiting the Commission's other functions, do one of the following unless the Commission is satisfied it would be unreasonable in the circumstances—
  - (i) dismiss the application,
  - (ii) adjourn the application for the period the Commission considers reasonable.

**[13] Section 322A**

Insert after section 322—

**322A Commission to assist bargaining**

- (1) The Commission must assist in bargaining in good faith for agreements between an association of contract carriers and a principal contractor or association of employing contractors.
- (2) For that purpose, the Commission may convene a compulsory conference and require the attendance of any person whose presence the Commission considers would help in the bargaining.
- (3) A compulsory conference must be presided over by a member of the Commission.
- (4) The Commission may confer with any person on any matter that may affect the bargaining, without requiring the person to attend a compulsory conference.
- (5) If unresolved, the Commission must first attempt to resolve the bargaining by conciliation.
- (6) The Commission, when attempting the conciliation, must do everything that seems to be proper to assist the parties to make an agreement.
- (7) During conciliation proceedings, the Commission may make a recommendation or give a direction to the parties.
- (8) Failure to comply with a recommendation or direction may not be penalised but may be taken into account by the Commission in exercising the Commission's functions under this Act.
- (9) The action that may be taken by the Commission to assist the parties includes making arrangements or giving directions for the convening and conduct of conferences of the parties or their representatives, whether or not compulsory conferences and whether or not presided over by a member of the Commission.
- (10) The Commission, when dealing with parties negotiating an agreement, must consider whether the parties have bargained in good faith and, in particular, whether the parties have—
  - (a) attended meetings they have agreed to attend, and
  - (b) complied with agreed or reasonable negotiating procedures, and
  - (c) disclosed relevant information for the purposes of negotiation, other than confidential or commercially sensitive information.
- (11) The Commission may make recommendations or give directions to the parties to bargain in good faith.

**[14] Section 330 Termination of contract agreement**

Omit section 330(3) and (3A). Insert instead—

- (3) After the end of the nominal term of a contract agreement, a party to the contract agreement may apply to the Commission under Part 2 for a contract determination to replace the contract agreement.
- (3A) A contract determination must not be made unless the Commission considers it appropriate having regard to the following—
  - (a) the conduct of the parties in negotiations for a new contract agreement, if any,
  - (b) whether the replacement of the contract agreement with a contract determination would adversely impact a party's bargaining position,
  - (c) whether the replacement of the contract agreement with a contract determination would adversely impact the bailees or carriers who were parties to the contract agreement,
  - (d) the state of the bailor's or principal contractor's business, including the impact the continued operation of the contract agreement would have on the bailor's or principal contractor's business,
  - (e) other matters the Commission considers relevant.
- (3B) If a contract determination is made following an application under subsection (3), the Commission must terminate the contract agreement with effect from the commencement of the operation of the contract determination.
- (3C) Subsection (3B) has effect despite subsection (4).
- (3D) In the case of a contract agreement to which a group of carriers is a party, the contract agreement can be terminated by the carriers, but only if the proposed termination is approved in a secret ballot by not less than 65% of the carriers covered by the agreement at the time the ballot is conducted.

**[15] Section 331A**

Insert after section 331—

**331A Application of contract agreement to successor principal contractors**

- (1) This section applies if—
  - (a) a contract agreement that applies to a principal contractor is approved by the Commission, and
  - (b) at a later time, a new principal contractor becomes the successor, whether or not immediate, of the whole or part of the business of the principal contractor.
- (2) From the later time—
  - (a) to the extent the contract agreement applies to the whole or part of the business, the contract agreement—
    - (i) applies to the new principal contractor, and
    - (ii) does not apply to the previous principal contractor, and
  - (b) a reference in this chapter to the principal contractor, to the extent the context relates to the whole or part of the business—
    - (i) is a reference to the new principal contractor, and
    - (ii) is not a reference to the previous principal contractor.

- (3) The Commission may make an order to give effect to the operation of this section, including by varying the contract agreement.

**[16] Section 332 Compulsory conference with respect to disputes**

Insert after section 332(1)—

- (1A) For the compulsory conference, the Commission may require the attendance of any person whose presence the Commission considers would help in the settlement of the industrial dispute, including a person involved in the contractual chain that relates to the dispute.
- (1B) A compulsory conference must be presided over by a member of the Commission.
- (1C) The Commission must first attempt to settle the industrial dispute by conciliation.
- (1D) During conciliation proceedings, the Commission may—
- (a) make a recommendation or give a direction to the parties to the dispute, and
  - (b) make a recommendation to a person referred to in subsection (1A).
- (1E) Failure to comply with a recommendation may be taken into account by the Commission in exercising the Commission's functions under this Act, including in relation to a decision to vary or rescind a contract determination.

**[17] Section 332(2)**

Omit the subsection. Insert instead—

- (2) This subsection applies if an association registered under this chapter or a bailor or a principal contractor becomes aware of an industrial dispute that relates to a contract of bailment or a contract of carriage, including a contract of bailment or a contract of carriage that has been terminated.

**[18] Section 332(5)–(8)**

Omit section 332(5) and (6). Insert instead—

- (5) If the Commission considers that all reasonable steps have been taken to resolve the industrial dispute by conciliation, the Commission may do one or both of the following—
- (a) make a contract determination expressed to be an interim determination made under this subsection,
  - (b) make another order or exercise another function the Commission considers appropriate to resolve the dispute.
- (6) An interim determination made under subsection (5)(a)—
- (a) may be expressed in the terms the Commission considers appropriate, including terms to restore or maintain the conditions existing between the parties immediately before the occurrence of the events giving rise to the industrial dispute, and
  - (b) remains in force for the period specified by the Commission in the interim determination.
- (7) An interim determination or an order the Commission makes under subsection (5)(b) may apply to one or more parties to the industrial dispute, including a person involved in the contractual chain that relates to the dispute.

- (8) The Commission must not exercise a function under subsection (5) if, in the Commission's opinion, the exercise would interfere with the reasonable commercial arrangements of the parties to a contract or arrangement in a contractual chain.

**[19] Chapter 6, Part 8**

Insert after Part 7—

**Part 8 Miscellaneous**

**355A Involvement in contravention treated in same way as actual contravention**

- (1) A person who is involved in a contravention of a provision of this chapter, other than an offence provision, is taken to have contravened that provision.
- (2) A person is involved in a contravention of a provision if, and only if, the person—
- (a) has aided, abetted, counselled or procured the contravention, or
  - (b) has induced the contravention, whether by threats or promises or otherwise, or
  - (c) has been in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the contravention, or
  - (d) has conspired with others to effect the contravention.

**355B Contract determinations and contract agreements must include provisions dealing with tolls and routes**

A contract determination or contract agreement for contracts of carriage must include the following—

- (a) a provision specifying how tolls incurred in the course of work performed under a contract of carriage to which the contract determination or contract agreement applies are to be reimbursed,
- (b) a provision setting out a carrier's obligations under the contract determination or contract agreement regarding routes that must be taken to effect a delivery, being obligations that are reasonable in the circumstances.

**355C Dispute resolution where proposed Fair Work Commission minimum standards orders pending**

The Commission must not deal with an industrial dispute under Part 4 that relates to a carrier or group of carriers if an application has been made, but has not been determined, for an employee-like worker minimum standards order under the *Fair Work Act 2009* of the Commonwealth, section 536JZ that has a reasonable likelihood of applying to the same carrier or group of carriers.

**[20] Schedule 1 Persons deemed to be employees**

Omit clause 1(a) and (e).

**[21] Schedule 4 Savings, transitional and other provisions**

Insert at the end of the schedule, with appropriate part and clause numbering—

## Part Provisions relating to Industrial Relations Amendment (Transport Sector Gig Workers and Others) Act 2025

### Meaning of “contract of carriage”—s 309

- (1) A contract determination or contract agreement, as in force on the commencement date, does not apply to an expansion contract unless the contract determination or contract agreement is varied to specifically include the expansion contract or the class of expansion contracts.
- (2) The Commission may, on its own motion or on application in accordance with this Act, vary a contract determination or contract agreement to specifically include an expansion contract or class of expansion contracts.
- (3) In this clause—

**commencement date** means the date of commencement of the *Industrial Relations Amendment (Transport Sector Gig Workers and Others) Act 2025*, Schedules 1[3]–[7] and [21] and 2.

**expansion contract**—

- (a) means a contract of a kind that—
  - (i) immediately before the commencement date, was not a contract of carriage within the meaning of this Act, and
  - (ii) on and after the commencement date, is a contract of carriage within the meaning of this Act, and
- (b) includes the following—
  - (i) a contract that is made in the ordinary course of business for the carriage of packaged goods for different principal contractors by the use of the same motor vehicle or bicycle,
  - (ii) a contract for the carriage of mail by or on behalf of Australia Post,
  - (iii) a contract for the carriage of bread, milk or cream for sale or delivery for sale,
  - (iv) a contract for the carriage of goods that are to be sold pursuant to orders solicited during the carriage of the goods, or
  - (v) a contract for the delivery of meals to homes or other premises for consumption,
  - (vi) a contract that is a contract of carriage by operation of this Act, section 309(5), definition of **prescribed circumstances**, paragraphs (a)–(c).

### Review of amendments to Act

- (1) The Minister is to review the amendments made to this Act by the *Industrial Relations Amendment (Transport Sector Gig Workers and Others) Act 2025* to determine whether the policy objectives of the amendments remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review must be undertaken as soon as possible after the period of 12 months from the date of assent to the *Industrial Relations Amendment (Transport Sector Gig Workers and Others) Act 2025*.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 12 months after the end of the period of 12 months.

**[22] Dictionary**

Insert in alphabetical order—

**bicycle** includes the following—

- (a) a scooter,
- (b) a powered or unpowered bicycle.

**contractual chain** means a chain or series of contracts or arrangements under which work is performed for a party to a contract or arrangement in the chain or series by a bailor or carrier under a contract to which Chapter 6 applies.

**goods** includes the following—

- (a) goods carried in the course of work performed by a contract carrier who, if the contract carrier were an employee, would be covered by one of the following instruments or an instrument that replaces it—
  - (i) the *Road Transport and Distribution Award 2020*,
  - (ii) the *Transport (Cash in Transit) Award 2020*,
  - (iii) the *Waste Management Award 2020*,
- (b) groceries,
- (c) food, whether—
  - (i) cooked or uncooked, or
  - (ii) for immediate consumption or otherwise,
- (d) another thing prescribed by the regulations.

## **Schedule 2      Amendment of Industrial Relations (General) Regulation 2020**

### **Clause 34 Contract of carriage—meaning**

Omit clause 34(1)(a) and (3).