



New South Wales

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

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Industrial Relations Act 1996* (**the Act**) and *Industrial Relations (General) Regulation 2020* to—

- (a) provide for the extension of regulation under the Act, Chapter 6 to certain transport gig worker contracts by deeming these contracts as contracts of carriage, and
- (b) allow the Industrial Relations Commission of New South Wales (the **Commission**) to assist in the bargaining of pay and other conditions for certain transport sector gig worker contracts, and
- (c) set out the relevant considerations that the Commission must have regard to when making a contract determination under the Act, Chapter 6, and
- (d) authorise the Commission to require the attendance of a person involved in the contractual chain that relates to the industrial dispute that is the subject of a compulsory conference, and
- (e) extend accessorial liability to persons involved in the contractual chain who are involved in a contravention of the Act, Chapter 6, and
- (f) provide that contract determinations and contract agreements for contracts of carriage must include provisions—
 - (i) specifying how tolls incurred in the course of work performed under a contract of carriage are to be reimbursed, and
 - (ii) setting out a carrier’s reasonable obligations regarding routes that must be taken to effect a delivery, and

- (g) repeal the current exclusion of certain contracts from the jurisdiction of the Act, Chapter 6, and
- (h) make certain consequential amendments.

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.

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

Schedule 1[1] inserts proposed section 305A to provide objects for the Act, Chapter 6.

Schedule 1[2] provides that the Commission may declare particular contracts, or a class of contracts, to be contracts of carriage and sets out the circumstances relevant to this declaration.

Schedule 1[3] repeals the current exclusion of certain contracts from the jurisdiction of the Act, Chapter 6 to give effect to the objects of the Bill. **Schedule 1[4], [7] and [20]** make consequential amendments.

Schedule 1[5] inserts definitions of *person directly involved in the business* and *prescribed circumstances* for the Act, section 309. **Schedule 1[6]** makes a consequential amendment.

Schedule 1[7] amends a provision deeming agents to be principal contractors, to make clear that a carrier who does not own or operate more than a total of 3 motor vehicles and bicycles must not be regarded as a principal contractor under the section.

Schedule 1[8] inserts proposed sections 310B and 310C, which relate to certain transport sector gig worker contracts. Proposed section 310B extends the operation of the Act, Chapter 6 to a contract for the transportation of persons or goods, or both, 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*.

Proposed section 310C inserts a definition of *digital labour platform* for the Act, Chapter 6.

Schedule 1[9] provides a list of considerations the Commission must have regard to when making a determination in relation to contracts of carriage. **Schedule 1[10]** makes a consequential amendment.

Schedule 1[11] provides that the Commission may extend a contract determination to bind the successor of a principal contractor and that a contract determination is binding on all parties in the contractual chain.

Schedule 1[12] inserts proposed section 321A to provide that if an application has been made to the Commission under the Act, Chapter 6, Part 2 for a contract determination in relation to a carrier or group of carriers and an application has been made 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, but has not been determined, the Commission, when dealing with its application, must have regard to the section 536JZ application, and must dismiss the application or adjourn the application unless the Commission is satisfied it would be unreasonable in the circumstances.

Schedule 1[13] inserts proposed section 322A to provide that the Commission must assist in the bargaining in good faith for agreements concerning pay and conditions between an association of contract carriers and a principal contractor or association of employing contractors. The proposed

section also authorises the Commission to convene a compulsory conference and sets out the procedural requirements for a compulsory conference.

Schedule 1[14] makes amendments about the termination of contract agreements.

Schedule 1[15] inserts proposed section 331A to provide that a contract agreement approved by the Commission that applies to a principal contractor also applies to a successor principal contractor. The proposed section also provides that references in the Act, Chapter 6 to a principal contractor apply to a successor principal contractor.

Schedule 1[16] provides that the Commission may require the attendance of any person that may assist the settlement of an industrial dispute that is the subject of a compulsory conference, including a person involved in the contractual chain that relates to the dispute. The proposed subsections also set out the procedural requirements for a compulsory conference. **Schedule 1[17] and [18]** make consequential amendments.

Schedule 1[19] inserts Part 8 into the Act, Chapter 6. Proposed section 355A provides that a person who is involved in a contravention of Chapter 6, other than an offence provision, is taken to have contravened the provision. Proposed section 355B provides that a contract determination or contract agreement for contracts of carriage 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.

Proposed section 355C provides that the Commission must not deal with a matter under the Act, Chapter 6, Part 4 in relation to a carrier or a 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.

Schedule 1[21] inserts savings and transitional provisions and provides for a review of the amendments made by the proposed Act.

Schedule 1[22] inserts definitions of *bicycle*, *contractual chain* and *goods* into the dictionary.

Schedule 2 Amendment of Industrial Relations (General) Regulation 2020

Schedule 2 omits the *Industrial Relations (General) Regulation 2020*, clause 34(1)(a) and (3), which are made redundant by Schedule 1[5].