

**INDUSTRIAL RELATIONS (PUBLIC VEHICLES AND  
CARRIERS) AMENDMENT BILL 1993\***

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Industrial Relations Act 1991 so as:

- (a) to extend the category of motor vehicles that may be covered by contracts of carriage under Chapter 6 (Public Vehicles and Carriers) of that Act from motor lorries to motor vehicles generally, including motor cars and motor cycles, thereby applying registered agreements and contract determinations of the Industrial Relations Commission to the conditions of engagement of the drivers of those vehicles; and
- (b) to exclude from the operation of registered agreements and contract determinations contracts of carriage that relate to the delivery of meals by couriers to homes or other premises for consumption; and
- (c) to extend the provisions of that Act relating to voluntary unionism:
  - (i) to preclude the insertion in new registered agreements and contract determinations under Chapter 6, and the enforcement in existing registered agreements and contract determinations, of terms conferring preference of engagement under contracts of bailment or carriage for members of associations of contract drivers and contract carriers; and
  - (ii) to make it an offence for a person to be victimised by a bailor of public vehicles, principal contractor or registered association of employing contractors, contract drivers or contract carriers for a variety of reasons including that the person is or is not a member of an association of contract drivers or contract carriers.

---

\* Amended in committee—see table at end of volume.

*Industrial Relations (Public Vehicles and Carriers) Amendment 1993 [Act 1993 No. 82]*

---

**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a proclaimed day or days.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments to the Industrial Relations Act 1991.

**Schedule 1 (1)** inserts a definition of “motor vehicle” for the purposes of Chapter 6 and the amendment made by Schedule 1 (2) (a). “Motor vehicle” is defined as having the same meaning as in the Traffic Act 1909. (The definition of “motor vehicle” in that Act includes motor cars, motor cycles and other vehicles propelled by volatile spirit, steam, gas, oil or electricity, and trailers.)

**Schedule 1 (2) (a) and (c)** deals with extension of the category of motor vehicles that may be covered by contracts of carriage under Chapter 6. References to “motor lorry” are replaced with references to “motor vehicle” in the provision defining a contract of carriage. However, a transitional provision stipulates that, despite this amendment, registered agreements and contract determinations made before the commencement of the transitional provision will continue to apply only to motor lorries until they are varied to apply to other motor vehicles.

**Schedule 1 (2) (b)** provides that the definition of “contract of carriage” is not to include a contract with respect to the delivery of meals by couriers thereby excluding such contracts from the operation of registered agreements and contract determinations under Chapter 6.

**Schedule 1 (3)** provides that a registered agreement or contract determination under Chapter 6 cannot confer preference of engagement under contracts of bailment or carriage for members of associations of contract drivers or contract carriers.

This item also creates an offence for a bailor of public vehicles, principal contractor or registered association of employing contractors, contract drivers or contract carriers to victimise a person on a number of grounds. These include that the person is or is not a member of an association of contract drivers or contract carriers, has refused to engage in industrial action, has claimed the benefit of a registered agreement or contract determination to which the person is entitled or has informed any person that a breach of a registered agreement or contract determination has been committed by a bailor of public vehicles or principal contractor.

Victimisation is defined to include, in the case of a bailor of public vehicles or principal contractor, terminating or threatening to terminate a person’s engagement under a contract of bailment or carriage, injuring a person in his or her engagement or refusing to engage a person. In the case of an association, victimisation includes inciting a bailor of public vehicles or principal contractor to victimise a person or taking industrial action against a bailor of public vehicles or principal contractor with the intent to coerce the bailor or principal contractor to victimise the person.

The maximum penalty for the offence is 100 penalty units (currently, \$10,000). Proceedings for the offence can only be brought in the Industrial Court and may be taken by the secretary of an association of contract drivers or contract carriers or an elected representative of bailees of public vehicles or carriers or by any person who has the Minister’s consent.

A person who has been subjected to victimisation (whether or not proceedings for an offence have been brought) may apply to the Industrial Court for relief. The Industrial Court may, among other things, declare a contract of bailment or carriage void, vary a

*Industrial Relations (Public Vehicles and Carriers) Amendment 1993 [Act 1993 No. 82]*

---

contract of bailment or carriage or direct a bailor of public vehicles, principal contractor or association to pay any amount lost by the person as the result of the victimisation or to pay damages to the person. The Industrial Court may also award costs.

The provisions dealing with victimisation do not apply to conduct occurring before their commencement.

The proposed provisions dealing with preference and victimisation are in similar terms to sections 480–482 of the Principal Act that deal with preference for unionists and victimisation in employment.

**Schedule 1 (4)** makes an amendment that is consequential on the amendment made by Schedule 1 (1).

---