



New South Wales

Industrial Relations (General) Amendment (Contracts of Carriage) Regulation 1999

under the

Industrial Relations Act 1996

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Industrial Relations Act 1996*.

J. W. SHAW, Q.C., M.L.C.,

Minister for Industrial Relations

Explanatory note

Chapter 6 of the *Industrial Relations Act 1996* applies a modified industrial relations system to drivers of public vehicles and carriers of goods by vehicle who are engaged under contracts that are not contracts of employment. For that purpose, section 309 of the Act defines ***contract of carriage***. The expression is defined to mean a contract for the transportation of goods by means of a motor vehicle or bicycle in the course of a business of transporting goods of that kind by motor vehicle or bicycle, but only if the person employed in driving or riding on that motor vehicle or bicycle is a person who is directly involved in the business ie the individual who owns that business, a partner in the business or another person who has an interest in the business (such as a director).

The object of this Regulation is to permit some exceptions to the requirement that only persons directly involved in the business drive or ride on the motor vehicle or bicycle. The exceptions are:

- (a) the driving or riding on a motor vehicle or bicycle by a person who has been employed to take the place temporarily of a person directly involved in the business who is sick, on annual leave or otherwise temporarily unavailable, and

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- (b) the riding on a motor vehicle by a person who has been employed for the purpose of loading or unloading, or assisting in loading or unloading, goods being transported by means of the motor vehicle.

The effect of the Regulation is that, if a person other than a person who is directly involved in the business is employed in the above circumstances to drive or ride on a motor vehicle or bicycle being used to transport goods, the contract for the transportation of goods will still be considered to be a contract of carriage, and the provisions of Chapter 6 of the Act will apply.

This Regulation is made under the *Industrial Relations Act 1996*, including section 309 (contract of carriage—meaning) and section 407 (the general regulation making power).

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1 Name of Regulation

This Regulation is the *Industrial Relations (General) Amendment (Contracts of Carriage) Regulation 1999*.

2 Amendment of Industrial Relations (General) Regulation 1996

The *Industrial Relations (General) Regulation 1996* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendment

(Clause 2)

Clause 29AA

Insert before clause 29A:

29AA Contract of carriage—meaning

(1) For the purposes of section 309 (1) (a), (b) and (c) of the Act, the following circumstances are prescribed:

- (a) the driving or riding on a motor vehicle or bicycle by a person who is employed (whether pursuant to a contract of employment or not and whether by the carrier or not) to take the place temporarily of a person directly involved in the business who is sick, on annual leave or is otherwise temporarily unavailable,
- (b) the riding on a motor vehicle by a person who is employed (whether pursuant to a contract of employment or not and whether by the carrier or not) for the purpose of loading or unloading, or assisting in loading or unloading, goods being transported by means of the motor vehicle.

(2) In this clause:

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) of the Act.

BY AUTHORITY