

Act 1994 No. 40

**INDUSTRIAL RELATIONS (CONTRACTS OF CARRIAGE)
AMENDMENT BILL 1994***

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:

- (a) to allow certain contract carriers to claim compensation from principal contractors on the termination of contract of carriage arrangements for the loss suffered, or the loss that may be suffered, by the carriers as a result of the termination of the contract of carriage arrangements; and
- (b) to provide for the arbitration of disputes arising out of such claims for compensation.

A new Part is to be inserted into Chapter 6 of the Industrial Relations Act 1991 (proposed Part 5A).

The Part provides that a claim for compensation may be made by a contract carrier if the carrier paid goodwill (explained in proposed section 697A) in respect of the contract of carriage arrangement (also explained in proposed section 697A) and the arrangement is terminated by a principal contractor or by the contract carrier primarily for reasons beyond the control of the carrier.

A contract carrier whose contract of carriage arrangement has been terminated in such circumstances may claim compensation even though the contract carrier has not paid goodwill if, because of custom or general practice in the relevant transport business of the principal contractor, compensation is payable to the contract carrier as a result of the termination.

The Part also provides for the following:

- (a) the time within which claims are to be referred to arbitration;
- (b) the conditions to be met before the dispute can be arbitrated (e.g. the dispute has been referred to mediation but the mediation has been unsuccessful);
- (c) the constitution and functions of the arbitration panel;

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

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- (d) procedural matters relating to the conduct of the arbitration;
- (e) matters to be taken into account by the arbitration panel in determining the amount of compensation to be paid;
- (f) determination of the amount of compensation to be awarded if the arbitration panel cannot reach agreement;
- (g) the right of appeal to the Full Industrial Court on questions of law arising out of the arbitration;
- (h) the payment of the arbitration panel's fees and expenses;
- (i) prohibiting "contracting out" provisions in any contract or agreement except in certain circumstances;
- (j) the disputes arising out of matters occurring before the commencement of the proposed Act that may be referred to arbitration,

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to Schedule 1 which contains the amendments described above.
