Date Introduced: 3 October 1984
House: Senate
Presented by: Senator Jack Evans, Australian Democrats

Short Digest of Bill

Purpose

To establish tribunals which will enable legally binding determinations to be made with respect to safety, remuneration and other conditions relating to various classes of owner-drivers. It also provides a legal framework upon which owner-drivers can base industrial agreements with their corporate bailors or principal contractors.

Main Provisions

Clause 4 provides for the registration of organisations of (1) employing contractors representing bailors of vehicles and principal contractors and (2) bailee drivers and contract carriers. Clause 3 defines a "principal contractor" as a corporation that enters into a contract with another person for the transportation of goods by the latter. A "bailee driver" means a person who drives a motor vehicle bailed to him when under a contract of bailment. "Carrier" means a person who undertakes to transport goods for another person under a contract of carriage. Clause 6 provides for the incorporation of registered organisations. Clause 7 provides for the cancellation of registration.

Clause 8 provides for the making of industrial agreements concerning conditions of bailments between bailee drivers and bailors or registered organisations representing bailors. It also provides for industrial agreements between contract carriers and a principal contractor or registered organisations representing principal contractors, with respect to the conditions of contract of carriage. A contract of carriage means a contract for the transportation of goods of a particular kind, but contracts where the carrier is a common carrier are excluded - sub-clauses 3(2) and (3). An industrial agreement is binding on all parties...
to the agreement (clause 11). Duplicates of industrial agreements are to be filed with the Registrar (clause 10).

In the event of a conflict between a contract of carriage or a contract of bailment and a term of an industrial agreement to which the contract relates, the term of the industrial agreement prevails (clause 12).

Clause 16 permits the President of the Conciliation and Arbitration Commission to establish Contracts Disputes Tribunals with respect to a class of contracts of carriage specified by the President, or contracts of bailment of vehicles specified by the President.

The powers of Tribunals so established are set out in clauses 23 and 24. By clause 23 a Tribunal established with respect to a class of contracts of carriage is empowered inter alia to inquire into and make determinations concerning disputes about remuneration of carriers, the maximum number of hours during which carriers may drive vehicles in the carriage of goods under contract, and other terms and conditions of contracts. By clause 24 a Tribunal established with respect to a class of contracts of bailment of vehicles may inquire into and make determinations with respect to disputes concerning remuneration, maximum number of hours that bailees may drive vehicles under contracts of bailment and any other conditions of bailment contracts included in that class of contracts.

Clause 25 provides that where application is made under clauses 23 or 24, the Presiding member of the Tribunal shall direct the applicants to attend a conference. If the parties reach agreement, the Tribunal may make a determination giving effect to it.

Under clause 26, the Tribunal may make a determination. Determinations are binding on all those who are parties to contracts of carriage or bailment included in that class (clause 28). Determinations of the Tribunal are final (clause 35).

Clause 41 extends paragraph 51(2)(a) of the Trade Practices Act 1974 to any act done in relation to any provision of a contract, industrial agreement or determination to the extent that the provision relates to remuneration, working conditions and hours of bailee drivers and carriers within the meaning of this Bill. (Paragraph 51(2)(a) exempts such acts from the provisions of Part IV of the Trade Practices Act other than sections 45D, 45E and 48).
By clause 42 an association of employers may be registered under section 132 of the Conciliation and Arbitration Act 1904 notwithstanding that its members do not employ employees, but are bailors or principal contractors. Likewise it provides that an association of employees may be registered notwithstanding that its members include persons who are not employees, but are bailees or carriers within the meaning of the Bill.

The Governor-General is empowered to make regulations by clause 43.

For further information, if required, contact:

10 October 1984

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