



New South Wales

# Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017

under the

Point to Point Transport (Taxis and Hire Vehicles) Act 2016

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

Minister for Transport and Infrastructure

## Explanatory note

The objects of this Regulation are as follows:

- (a) to prescribe providers of certain services related to booking services as providers of booking services, subject to exemptions if another individual, body corporate or entity is authorised to provide the booking service. If an entity is authorised, the exemption will be conditional on compliance with the requirements of the Act for authorisation and other applicable requirements,
- (b) to specify safety standards with respect to passenger services and booking services, including for vehicles, insurance, provision of information and drivers, and to require compliance with safety standards,
- (c) to prescribe certain entities that may apply for authorisation to provide a booking service,
- (d) to set out requirements for applications for authorisation to provide passenger services or booking services and additional authorisation standards,
- (e) to specify the offences that are disqualifying offences with respect to applicants for authorisation (including offences committed by close associates and nominated directors and managers of applicants),
- (f) to impose additional conditions on authorisations relating to records and the provision of information,
- (g) to set out the fees for authorisations to provide a taxi service or a booking service,
- (h) to exempt certain applicants for taxi licences from an application fee and to set out the circumstances in which a taxi licence fee need not be determined by public auction or a tender process,
- (i) to specify the matters that must be notified when notice is given of a lease or sublease of, or an arrangement to confer the benefit of, a taxi licence,
- (j) to impose additional conditions on taxi licences relating to payment of licence fee instalments and to the use of peak availability taxis,
- (k) to specify matters that must be included in fare estimates and to require a service not to be commenced unless a fare estimate has been accepted,

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- (l) to require the provider of a taxi service to establish a fare structure for its taxi services and to provide information about the fares,
- (m) to make other provision about taxi fares, including requiring the payment of taxi fares by hirers, establishing a pre-payment scheme for taxis and permitting fares that are larger than otherwise permitted if a fare is agreed with a driver to take a passenger to a place outside a taxi's area of operation,
- (n) to provide for conduct offences for drivers and passengers,
- (o) to provide for offences relating to interference with taxi safety devices and the operation of taxis,
- (p) to prohibit the driver of a hire vehicle from plying or standing for hire on a road or using a taxi zone or road to pick up passengers who do not have a previous booking,
- (q) to confer on authorised officers powers to direct persons to leave taxis or hire vehicles in specified situations,
- (r) to specify classes of persons who may be appointed as authorised officers for enforcement purposes,
- (s) to exempt travel agents, assisted school transport providers, patient transport services and car pooling arrangements from the requirements applicable to passenger services and to enable the Point to Point Transport Commissioner (the **Commissioner**) to exempt persons or vehicles from all or any of the provisions of the proposed Regulation and the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*,
- (t) to enable the Commissioner to appoint taxi zones for taxis,
- (u) to require personal information disclosed by the Commissioner to the provider of a passenger service or a booking service to be kept, accessed and disclosed in accordance with requirements approved by the Commissioner,
- (v) to specify the fees payable under the proposed Regulation and the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*,
- (w) to specify offences under the proposed Regulation and the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* for which a penalty notice may be issued and the penalty amounts for those notices,
- (x) to provide for matters relating to the administration of the levy on passenger service transactions by providers of booking services and taxi services, including registration procedures, payment arrangements by bank deposits and transfers for the levy, the cases in which liability may be reduced or waived and providing a rebate for certain providers who carry out a low volume of passenger service transactions,
- (y) to modify the periods for objections to assessments of the levy and to limit the grounds for objection to a mistake in the assessment of the liability,
- (z) to prohibit a person from demanding an amount for the levy as part of a fare unless it is permitted by a fares order or fares structure and does not exceed the actual levy amount,
- (aa) to provide for savings and transitional matters consequent on the commencement of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

This Regulation is made under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, including sections 4 (4), 7 (4), 20 (1), 21 (1), 22 (1), 23, 24, 30 (1) (d) and (3) (d), 31 (6), 32, 37 (2), 40 (1) (b), 49 (2) (e) and (f), 51 (3) (c), 60 (1) (b), 63 (2), 67 (2), 79 (2) (b), 107, 135 and 158 (the general-regulation making power), Schedule 1, clause 1 of Schedule 2 and clause 11 of Schedule 4.

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## Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017

under the

Point to Point Transport (Taxis and Hire Vehicles) Act 2016

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017*.

#### 2 Commencement

This Regulation commences on [*insert date*] and is required to be published on the NSW legislation website.

#### 3 Definitions

(1) In this Regulation:

***affiliated service*** means a taxi service provided by an affiliated provider.

***approved security camera system*** means a security camera system that complies with requirements established for the time being by TfNSW by order published in the Gazette.

***approved vehicle tracking device*** means a vehicle tracking device that complies with requirements established for the time being by TfNSW by order published in the Gazette.

***authorisation*** means authorisation to provide a taxi service or a booking service.

***authorised fare*** for the hiring of a taxi means:

- (a) the amount chargeable for the hiring in accordance with a fares order, or
- (b) if there is no applicable fares order or the fare determined by the provider of the taxi service in accordance with clause 53 is less than the fare under the applicable fares order, the amount chargeable for the hiring in accordance with fares determined by the provider of the taxi service in accordance with that clause.

***drive*** a vehicle includes cause or allow the vehicle to stand.

***driver licence*** has the same meaning as in the *Road Transport Act 2013*.

***duress alarm system***, in relation to a taxi, means a system by which the driver of the taxi can, in a discreet manner, notify the location of the taxi to another person or place.

***facilitator*** of an affiliated service means the provider of a taxi service that facilitates the provision of the affiliated service by the affiliated provider.

***fares order*** means an order made by TfNSW under section 76 of the Act.

***Metropolitan transport district*** means the Metropolitan transport district established under section 108 of the *Transport Administration Act 1988*.

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**Newcastle transport district** means the Newcastle transport district established under section 108 of the *Transport Administration Act 1988*.

**nominated manager** includes a manager nominated by an entity under clause 36.

**notifiable occurrence** has the same meaning as it has in section 24 of the Act.

**passenger service transaction** means:

- (a) in the case of the provider of a booking service, taking a booking for a taxi or hire vehicle to provide a passenger service to a person (whether the passenger service is to be provided by the provider who takes the booking or another person), or
- (b) in the case of the provider of a taxi service, the provision of a taxi service to a passenger (other than as a result of the taking of a booking by the provider of the taxi service).

**peak availability licence**—see clause 51 (2).

**related booked service**, in relation to a booking service, means the transport of a passenger by the provider of a passenger service as a result of a booking taken by the booking service.

**security camera system** means a system that records images of persons in or about a taxi.

**stand-by taxi** means a motor vehicle that is, in accordance with section 49 of the Act and this Regulation, being used in place of a taxi that is out of operation for repair or service.

**Sydney Airport precinct** means the area known as the Sydney (Kingsford-Smith) Airport, bounded by Airport Drive, Qantas Drive, Joyce Drive, General Holmes Drive, Marsh Street and the M5 Motorway.

**taxi zone** means a taxi zone appointed under clause 94.

**the Act** means the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

**vehicle tracking device** means a device by which the location of a taxi can be followed by using the vehicle tracking system operated by the provider of the taxi service, or by another taxi service provider on behalf of the provider.

**wheelchair accessible hire vehicle** means a hire vehicle that has wheelchair access.

**wheelchair accessible taxi** means a taxi that has wheelchair access.

**Wollongong transport district** means the Wollongong transport district established under section 108 of the *Transport Administration Act 1988*.

**Note.** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) For the purposes of this Regulation, a **vehicle is being used to provide a passenger service** if:
  - (a) the vehicle is being used to transport a passenger for the purposes of providing a passenger service or is travelling to pick up a passenger for that purpose, or
  - (b) the person driving the vehicle or a provider of a passenger service has indicated to the provider of a booking service, by logging into a dispatch or booking system or by other means, that the vehicle is available for hire, or
  - (c) the person driving the vehicle or a provider of a booking service is taking bookings on the basis that the vehicle is available for hire, or
  - (d) the vehicle is a taxi plying or standing for hire on a road or road related area.
- (3) Notes included in this Regulation do not form part of this Regulation.



#### 4 Certain service facilitators and other persons to be booking service providers

- (1) For the purposes of section 7 (4) of the Act, an individual or body corporate is taken to be the provider of a booking service if it carries on the business of providing any of the following services:
  - (a) technology services that facilitate or enable bookings for passenger services,
  - (b) marketing services in connection with facilitating or enabling bookings for passenger services,
  - (c) recruitment, assessment, monitoring, disciplinary or other management services relating to drivers used or proposed to be used for related booked services,
  - (d) complaint management services relating to related booked services and fares for related booked services.
- (2) Subclause (1) does not apply to an individual or body corporate if an authorisation is held by another individual or body corporate constituted or recognised under a law of Australia to provide the booking service in connection with which the services are provided.
- (3) An individual that is the nominated manager of an entity prescribed for the purposes of section 30 (1) (d) (a *prescribed entity*) is taken to be the provider of a booking service.
- (4) An individual or body corporate that is the provider of a booking service because of this clause is exempt from Part 3 of the Act in respect of the booking service if:
  - (a) an authorisation to provide the booking service in connection with which a service specified in subclause (1) is provided or for which the person is a nominated manager is held by a prescribed entity, and
  - (b) the authorisation is not suspended.
- (5) An individual or body corporate that is the provider of a booking service because of this clause is exempt from any other provision of the Act or this regulation that applies to or in respect of a provider of a booking service (other than Part 1, Division 2 of Part 7 and Parts 8, 10 and 11 of the Act and this clause and clause 93) if the applicable requirements of that provision are complied with by that entity.

## Part 2 Safety of services

### Division 1 Safety standards

#### 5 Specified safety standards

- (1) The provisions of this Part (other than this Division and Division 7) are specified as safety standards for the purposes of Division 3 of Part 2 of the Act.
- (2) A safety standard is specified for a provider of a passenger service, affiliated provider, facilitator of an affiliated service, provider of a booking service, owner or driver of a vehicle or the holder of a taxi licence by a provision of this Part if:
  - (a) the provision expressly imposes an obligation on the provider, facilitator, owner, driver or holder, or
  - (b) this Part specifies the safety standard for the provider, facilitator, owner, driver or holder.
- (3) A statement in a clause that specifies a safety standard for any such provider, facilitator, owner, driver or holder, or that any such provider, facilitator, owner, driver or holder is a responsible person for a safety standard, is taken to apply to all of the provisions of the clause for that purpose, unless the clause otherwise provides.

#### 6 Safety standards—offences

- (1) A provider of a passenger service, affiliated provider, facilitator of an affiliated service, provider of a booking service, owner or driver of a vehicle or the holder of a taxi licence must not contravene a safety standard specified for the provider, facilitator, owner, driver or holder by this Part.  
Maximum penalty:
  - (a) in the case of a body corporate—250 penalty units, or
  - (b) in any other case—50 penalty units.
- (2) A provider of a passenger service, affiliated provider, facilitator of an affiliated service, provider of a booking service, owner or driver of a vehicle or the holder of a taxi licence who is specified by this Part as a responsible person for a safety standard must ensure, so far as is reasonably practicable, that the safety standard is complied with.  
Maximum penalty:
  - (a) in the case of a body corporate—250 penalty units, or
  - (b) in any other case—50 penalty units.

### Division 2 Safety management system

#### 7 Identification and management of risks to health and safety

- (1) A provider of a passenger service must identify and keep a record of the following:
  - (a) the reasonably foreseeable hazards that could give rise to risks to health and safety to drivers, passengers and other persons in connection with the provision of the service,
  - (b) the control measures taken to eliminate or minimise those risks,
  - (c) the measures taken to maintain control measures.

- (2) A provider of a booking service must identify and keep a record of the following:
  - (a) the reasonably foreseeable hazards that could give rise to risks to health and safety to drivers, passengers and other persons in connection with the provision of a related booked service,
  - (b) the control measures taken to eliminate or minimise those risks,
  - (c) the measures taken to maintain control measures.
- (3) A provider of a passenger service or booking service must regularly consult with other persons who have a safety duty that relates to the service and keep a record of the consultations.
- (4) A record kept under this clause must also include the following:
  - (a) particulars of measures taken by the provider to comply with safety standards specified for the provider or for which the provider is a responsible person under this Part,
  - (b) particulars of any notifiable occurrences that are required to be reported to the Commissioner.
- (5) A record under this clause is to be kept in the form approved by the Commissioner.

## **Division 3 Vehicle standards**

### **8 General roadworthy requirements**

- (1) A vehicle used to provide a passenger service must at all times meet the requirements of the law as to vehicle safety and roadworthiness.
- (2) This safety standard is specified for the owner of the vehicle.
- (3) The following are responsible persons for this safety standard:
  - (a) the provider of a taxi service (other than an affiliated taxi service), if the vehicle is used to provide the taxi service,
  - (b) the facilitator of an affiliated service and the affiliated provider, if the vehicle is used to provide the affiliated service,
  - (c) the provider of a booking service, if the vehicle is a hire vehicle or taxi used to provide a related booked service,
  - (d) the holder of the taxi licence for the taxi, if the vehicle is a taxi.

### **9 Vehicle registration and registration standards for vehicles**

- (1) A vehicle used to provide a passenger service must at all times meet the requirements of the law for the registration of the vehicle.

**Note.** For vehicle registration standards, see Part 5 of, and Schedule 2 to, the *Road Transport (Vehicle Registration) Regulation 2007*.
- (2) This safety standard is specified for the owner of the vehicle.
- (3) The following persons are responsible persons for this safety standard:
  - (a) the provider of a taxi service (other than an affiliated service), if the vehicle is used to provide the taxi service,
  - (b) the facilitator of an affiliated service and the affiliated provider, if the vehicle is used to provide the affiliated service,
  - (c) the provider of a booking service, if the vehicle is a hire vehicle or taxi used to provide a related booked service,
  - (d) the holder of the taxi licence for the taxi, if the vehicle is a taxi.

## 10 Vehicle maintenance

- (1) The following standards apply to the maintenance of a vehicle used to provide a passenger service:
  - (a) the vehicle must be regularly and properly maintained so that it meets the requirements referred to in clauses 8 and 9,
  - (b) maintenance of the vehicle, including any maintenance schedule, is to be consistent with the recommendations of the manufacturer of the vehicle,
  - (c) records must be kept, in a form approved by the Commissioner, of the maintenance and inspections carried out on the vehicle.
- (2) Maintenance on, or repairs to, a vehicle used to provide a passenger service must not be carried out unless the person carrying out the maintenance or repairs is the holder of a licence or a tradesperson's certificate under the *Motor Dealers and Repairers Act 2013*, or an equivalent authorisation under the law of another State or Territory, to carry out the maintenance or repairs.
- (3) Subclause (2) applies even if the person who is to carry out the work concerned is exempted under the *Motor Dealers and Repairers Act 2013* from the operation of all or any of the provisions of that Act but does not apply to work that is not repair work for the purposes of that Act.
- (4) For the purposes of this clause, *maintenance* and *repairs* do not include the following:
  - (a) adding approved oils or other fluids to engines, transmissions, differentials, power steering reservoirs, windscreen washer reservoirs, master cylinders, radiators or batteries,
  - (b) changing engine, transmission or differential oils,
  - (c) changing engine oil filters or fuel filters,
  - (d) carrying out general lubrication,
  - (e) changing spark plugs,
  - (f) changing wheels or tyres,
  - (g) changing light bulbs,
  - (h) replacing seats or floor coverings,
  - (i) replacing external rear vision mirrors.
- (5) This safety standard is specified for the owner of the vehicle.
- (6) The following are responsible persons for this safety standard:
  - (a) the provider of a taxi service (other than an affiliated service), if the vehicle is used to provide the taxi service,
  - (b) the facilitator of an affiliated service and the affiliated provider, if the vehicle is used to provide the affiliated service,
  - (c) the provider of a booking service, if the vehicle is a hire vehicle or taxi used to provide a related booked service,
  - (d) the holder of the taxi licence for the taxi, if the vehicle is a taxi.

## 11 Wheelchair accessible vehicles

- (1) A wheelchair accessible taxi or wheelchair accessible hire vehicle used to provide a passenger service must:
  - (a) contain a space, for each of the number of wheelchairs proposed to be carried by the vehicle, that is not less than the size of a rectangular prism with a length

- of 1,300mm (parallel to the centre line of the vehicle), a width of 800 mm and a height of 1,500mm, and
- (b) have no intrusions into that space, other than adjustable restraint devices, and
  - (c) comply with the following standards:
    - (i) AS/NZS 3856.1:1998, *Hoists and ramps for people with disabilities—Vehicle-mounted, Part 1: Product requirements*,
    - (ii) AS/NZS 3856.2:1998, *Hoists and ramps for people with disabilities—Vehicle-mounted, Part 2: Installation requirements*,
    - (iii) AS/NZS 3696.19:2009, *Wheelchairs, Part 19: Wheeled mobility devices for use as seats in motor vehicles*,
    - (iv) AS/NZS 10542.1:2015, *Technical systems and aids for people with disability—Wheelchair tiedown and occupant-restraint systems, Part 1: Requirements and test methods for all systems*, and
  - (d) comply with the applicable standards of the Disability Standards for Accessible Public Transport issued under the *Disability Discrimination Act 1992* of the Commonwealth, and
  - (e) carry wheelchair restraints that enable the maximum number of occupied wheelchairs that the taxi or hire vehicle is capable of conveying to be safely and securely attached to the taxi or hire vehicle, and
  - (f) be supplied with an approved child restraint within the meaning of rule 266 of the *Road Rules 2014*.
- (2) A wheelchair accessible taxi or wheelchair accessible hire vehicle in use, and that complied with the requirements applicable to the equipment of that vehicle as in force, immediately before the commencement of this clause is not required to comply with subclause (1) (a) or (b) until 2 years after the commencement of this clause.
- (3) This safety standard is specified for the following:
- (a) the owner of the wheelchair accessible taxi or wheelchair accessible hire vehicle,
  - (b) the provider of a taxi service (other than an affiliated service), if the vehicle is a taxi and is used to provide the taxi service,
  - (c) the facilitator of an affiliated service and the affiliated provider, if the vehicle is a taxi and is used to provide the affiliated service,
  - (d) the provider of a booking service, if the vehicle is a wheelchair accessible hire vehicle or wheelchair accessible taxi used to provide a related booked service,
  - (e) the holder of the taxi licence for the taxi, if the vehicle is a wheelchair accessible taxi.

## 12 Digital displays prohibited

- (1) A vehicle used to provide a passenger service must not display on any exterior surface of the vehicle, or by means of a device attached to the roof or other exterior surface or fixture of the vehicle, any digital or other moving image.
- (2) This clause is specified as a safety standard for the owner of the vehicle.
- (3) The following are responsible persons for this safety standard:
  - (a) the provider of a taxi service (other than an affiliated service), if the vehicle is used to provide the taxi service,
  - (b) the facilitator of an affiliated service and the affiliated provider, if the vehicle is used to provide the affiliated service,

- (c) the provider of a booking service, if the vehicle is a hire vehicle or taxi used to provide a related booked service,
- (d) the holder of the taxi licence for the taxi, if the vehicle is a taxi.

### **13 Accommodation standard for taxis**

- (1) A taxi must have seating accommodation for the driver and for at least 4 and not more than 11 other adult persons.
- (2) The taxi must have at least 4 side doors.
- (3) Subclause (2) does not apply to a wheelchair accessible taxi or a taxi that has seating accommodation for 6 or more adult persons.
- (4) A taxi that is required by a condition of its taxi licence to be wheelchair accessible must not have any seat (other than a folding seat) installed in the part of the taxi that is designed or intended for the conveyance of wheelchairs.
- (5) This safety standard is specified for the following:
  - (a) the provider of a taxi service (other than an affiliated service), if the taxi is used to provide the taxi service,
  - (b) the facilitator of an affiliated service and the affiliated provider, if the taxi is used to provide the affiliated service,
  - (c) the holder of the taxi licence for the taxi,
  - (d) the owner of the taxi.

### **14 Signs, lights and markings—taxis**

- (1) A taxi that plies or stands for hire on a road or road related area must be fitted with:
  - (a) a roof sign that displays the word “TAXI” in black lettering at least 70mm high, and
  - (b) a roof light that is clearly visible in daylight from a distance of 40 metres by a person having normal eyesight.
- (2) The roof light must be lit when the taxi is available for hire on a road or road related area but must not be lit at any other time.
- (3) A taxi that plies or stands for hire on a road or road related area must be painted or marked so that:
  - (a) it is clearly identifiable as a taxi, and
  - (b) the name or other identifying logo or colours of, and the contact information for, the provider of the taxi service are displayed prominently and are clearly visible on the taxi.
- (4) The following are responsible persons for this safety standard:
  - (a) the provider of a taxi service (other than an affiliated service), if the taxi is used to provide the taxi service,
  - (b) the facilitator of an affiliated service and the affiliated provider, if the taxi is used to provide the affiliated service,
  - (c) the holder of the taxi licence for the taxi.

### **15 Driver identification—taxi drivers**

- (1) The driver of a taxi must be provided with a driver identity document in the form of a card or electronic document containing the following:
  - (a) a photograph of the driver,

- (b) an identification number provided by the provider of the taxi service,
  - (c) the name and logo of the taxi service.
- (2) A taxi must be fitted with a device suitable for displaying the driver identity document that enables it to be displayed so that it is clearly visible to any passenger in the taxi.
- (3) This safety standard is specified for the following:
  - (a) the provider of a taxi service (other than an affiliated service), if the taxi is used to provide the taxi service,
  - (b) the facilitator of an affiliated service, if the taxi is used to provide the affiliated service.

## **16 Fare calculation devices—taxis**

- (1) A taxi that plies or stands for hire on a road or road related area must be fitted with a fare calculation device that complies with this clause.
- (2) All fares and other figures displayed on the fare calculation device must be clearly visible at all times to all persons in the taxi, whether on the device itself or by means of an auxiliary device.
- (3) The fare calculation device must be resistant to tampering and vandalism and must be in working order.
- (4) The fare calculation device must be:
  - (a) securely fixed to the taxi, or
  - (b) secured in a mounting that is commercially designed and manufactured for that purpose and is fixed to the taxi in the manner intended by the manufacturer.
- (5) The fare calculation device must not be located in any position, or installed in any way, in which it is likely to cause injury to the driver or any passenger during normal operation of the taxi or in the event of severe acceleration or deceleration.
- (6) The fare calculation device must:
  - (a) display the fare, including any additional fees, charges or tolls, at all times while a passenger is in the taxi, in numerals, in Australian dollars, and
  - (b) be capable of accurately calculating the fare at all times when the taxi is being used as a taxi, and
  - (c) be calibrated so that it determines the fare in accordance with the authorised fares.
- (7) Changes to the amount of the fare must be indicated by increments in units of not more than 10 cents.
- (8) The fare calculation device, or an auxiliary device, must be capable of storing or reproducing, or enabling the storage or reproduction of, information about the origin, destination, time, date and fare amount for each journey for which the device is used.
- (9) The information must be stored in the device, or stored in another secure place, for a period of not less than 2 years.
- (10) This safety standard is specified for the following:
  - (a) the provider of a taxi service (other than an affiliated service), if the taxi is used to provide the taxi service,
  - (b) the facilitator of an affiliated service and the affiliated provider, if the taxi is used to provide the affiliated service,

- (c) the holder of the taxi licence for the taxi.

## **17 Display of information—taxis**

- (1) The following information must be displayed inside a taxi that stands or plies for hire on a road or road related area so that it is clearly visible to any passenger in the taxi:
  - (a) the vehicle registration number of the taxi,
  - (b) contact information for the person authorised to provide the taxi service for which the taxi is used,
  - (c) the fares for journeys, including any additional tolls, fees or charges, that may be payable, and any differences arising because of the time when a journey is undertaken.
- (2) This safety standard is specified for the following:
  - (a) the provider of a taxi service (other than an affiliated service), if the taxi is used to provide the taxi service,
  - (b) the facilitator of an affiliated service and the affiliated provider, if the taxi is used to provide the affiliated service,
  - (c) the holder of the taxi licence for the taxi.

## **18 Duress alarm systems—taxis**

- (1) A taxi used to provide a taxi service in the Metropolitan, Newcastle or Wollongong transport district or within the Central Coast local government area, and that plies or stands for hire on a road or road related area, must be fitted with a duress alarm system that:
  - (a) complies with the specifications established for the time being by TfNSW by order published in the Gazette for taxis of that type, and
  - (b) is in working order.
- (2) The provider of a taxi service (other than an affiliated provider) or the facilitator of an affiliated service that provides taxis in a district or area referred to in subclause (1) must provide and operate the following:
  - (a) a system that monitors the activation of duress alarm systems in the taxis at all times when being used to provide the taxi service,
  - (b) a system that ensures the efficient operation of duress alarm systems in the taxis at all times when being used to provide the taxi service and the prompt response of the provider when a duress alarm system is activated.
- (3) Subclause (1) is specified as a safety standard for the following:
  - (a) the provider of a taxi service (other than an affiliated service), if the taxi is used to provide the taxi service,
  - (b) the facilitator of an affiliated service and the affiliated provider, if the taxi is used to provide the affiliated service,
  - (c) the holder of the taxi licence for the taxi.

## **19 Vehicle tracking systems—taxis**

- (1) A taxi used to provide a taxi service in the Metropolitan, Newcastle or Wollongong transport district or within the Central Coast local government area, and that plies or stands for hire on a road or road related area, must be fitted with an approved vehicle tracking device that is in working order.
- (2) The provider of a taxi service (other than an affiliated provider) or the facilitator of an affiliated service that provides taxis in a district or area referred to in subclause (1)



must provide and operate a system for monitoring the provision of services provided by taxis that ply or stand for hire.

- (3) Subclause (1) is specified as a safety standard for the following:
- (a) the provider of a taxi service (other than an affiliated service), if the taxi is used to provide the taxi service,
  - (b) the facilitator of an affiliated service and the affiliated provider, if the taxi is used to provide the affiliated service,
  - (c) the holder of the taxi licence for the taxi.

## 20 Approved security camera systems and safeguards—taxis

- (1) A taxi that plies or stands for hire on a road or road related area must be fitted with an approved security camera system that is in working order.
- (2) Signs must be conspicuously placed in and on the outside of a taxi that is fitted with a security camera system, advising persons that they may be under video surveillance while in or about the taxi.
- (3) The provider of a taxi service (other than an affiliated provider) or the facilitator of an affiliated service must provide and operate a system that is capable of producing recordings from a security camera installed in a taxi.
- (4) The provider of a taxi service, including an affiliated provider or the facilitator of an affiliated service must cause the following safeguards to be taken to ensure that any video recordings made by a security camera system are protected against misplacement and against use for unauthorised purposes, until disposed of in accordance with clause 21:
- (a) the security safeguards that TfNSW may specify from time to time by notice published in the Gazette that are applicable to the service,
  - (b) any other security safeguards that are reasonable in the circumstances.
- (5) Subclauses (1) and (2) are specified as a safety standard for the following:
- (a) the provider of a taxi service (other than an affiliated service), if the taxi is used to provide the taxi service,
  - (b) the facilitator of an affiliated service or an affiliated provider, if the taxi is used to provide the affiliated service,
  - (c) the holder of the taxi licence for the taxi.
- (6) Subclause (4) does not apply to an affiliated provider unless the affiliated provider is entitled to have access to the video recordings made by a security camera system fitted in or to a taxi used by the provider.
- (7) Nothing in this clause or clause 21 affects the operation of the *Workplace Surveillance Act 2005*.
- (8) In this clause and clause 21:
- authorised purpose**, in relation to the use of a video recording made by a security camera system fitted in or to a taxi, means any of the following purposes or any purpose connected with those purposes:
- (a) an activity referred to in section 18 (a)–(d) of the *Workplace Surveillance Act 2005*,
  - (b) the prosecution of, or the issue of a penalty notice in respect of, an offence under the Act or this Regulation or the *Crimes Act 1900* or a major offence under the *Road Transport Act 2013* that is committed in or about a taxi,
  - (c) ensuring a provider's compliance with the conditions of an authorisation,

(d) ensuring a passenger's compliance with any subsidised travel scheme.

**video recording** includes:

- (a) any electronically stored information from which a recorded image can be generated, and
- (b) any print-out or other reproduction of the recorded image.

## **21 Disposal of recordings made by security camera system in taxi**

- (1) The provider of a taxi service (other than an affiliated provider) or the facilitator of an affiliated service must cause any video recording made by a security camera system installed in a taxi used for the service to be disposed of in accordance with this clause within 30 days after the recording was made.
- (2) The recording may be disposed of by destroying it by deletion or otherwise or, if it is to be used for an authorised purpose, by giving it to:
  - (a) a police officer, or
  - (b) an officer authorised by the Commissioner or the Police Commissioner to receive it.
- (3) It is the duty of the Commissioner to ensure the destruction of any video recording that was given to an officer authorised by the Commissioner and which is no longer to be used for an authorised purpose.
- (4) It is the duty of the Police Commissioner to ensure the destruction of any video recording that was given to a police officer or to an officer authorised by the Police Commissioner and which is no longer to be used for an authorised purpose.
- (5) Subclause (1) does not apply in respect of a video recording made during the installation or testing of the security camera.

## **22 Signs and markings—hire vehicles**

- (1) A hire vehicle that is being used to provide a passenger service must not be painted or marked, or have signs or lights that:
  - (a) indicate it is a taxi or resemble those of a taxi, or
  - (b) could give rise to an inference that the vehicle is a taxi, or
  - (c) indicate or could give rise to an inference that the vehicle is a vehicle that is plying or standing for hire.
- (2) The driver of a hire vehicle (other than a motor cycle) that is being used to provide a passenger service must ensure that a retroflective sign is displayed on or attached to the vehicle that:
  - (a) makes it apparent that the vehicle is a hire vehicle, and
  - (b) is located on or near the rear of the driver's side of the vehicle, and
  - (c) is clearly visible from the outside of the vehicle.
- (3) The sign may be in the form of an identifying logo or other business identification.
- (4) Subclause (1) is specified as a safety standard for the owner of the vehicle.
- (5) The provider of a booking service is a responsible person for this safety standard, if the hire vehicle is used to provide a related booked service.

## **23 Motor cycles—hire vehicles**

- (1) A motor cycle used as a hire vehicle must comply with the Australian Design Rules (under the *Motor Vehicle Standards Act 1980* of the Commonwealth) vehicle category definition for any of the following:

- (a) motor cycles (LC vehicles),
  - (b) motor cycles and side cars (LD vehicles),
  - (c) motor tricycles (LE vehicles).
- (2) A motor cycle used to provide a passenger service must be fitted with wheel guards (including mudguards) that meet the requirements in *Australian Design Rule 42/04—General Safety Requirements* made under that Act.
- (3) A motor cycle used to provide a passenger service on any part of an unsealed road must be an LD vehicle or an LE vehicle.
- (4) A motor cycle that is an LC vehicle used to provide a passenger service must comply with the following:
  - (a) not have a two-stroke engine,
  - (b) not have an engine capacity of less than 500cc.
- (5) The following equipment must be available, in an undamaged condition and a range of sizes, for use by prospective passengers of a motor cycle used to provide a passenger service:
  - (a) motor cycle helmet that complies with rule 270 (3) of the *Road Rules 2014*,
  - (b) riding gloves,
  - (c) protective jacket,
  - (d) boots or gaiters.
- (6) The driver of a motor cycle that is being used to provide a passenger service must be competent in the operation of the motor cycle while carrying a passenger.
- (7) Subclause (1) is specified as a safety standard for the owner of the motor cycle.
- (8) The provider of a booking service is a responsible person for the safety standards specified in subclauses (1)–(6) if the motor cycle is used to provide a related booked service.

## **Division 4 Insurance**

### **24 Vehicle insurance**

- (1) There must be maintained for each vehicle used to provide a passenger service 1 or more policies of insurance providing cover of at least \$5,000,000 (for each occurrence) against liability in respect of damage to third-party property caused by or arising out of the use of the vehicle.
- (2) There must be maintained 1 or more policies that indemnify the driver for the time being of a vehicle used for a passenger service in relation to any damage to third-party property (including any excess payable on a claim) arising out of the use of the vehicle for that purpose.
- (3) To avoid doubt, the policy holder may enter into an agreement or other arrangement with the driver requiring the driver to pay the whole or part of any excess payable on a claim, if the claim arises out of the driver's conduct.
- (4) The policies must be issued by a corporation authorised under the *Insurance Act 1973* of the Commonwealth to carry on insurance business.
- (5) A policy maintained under this clause is not required to provide cover for any period when a hire vehicle is not being used to provide a passenger service.
- (6) This safety standard is specified for the following:
  - (a) the provider of a passenger service (other than a taxi service),

- (b) the provider of a taxi service (other than an affiliated service), if the vehicle is used to provide the taxi service,
- (c) the facilitator of an affiliated service and the affiliated provider, if the vehicle is used to provide the affiliated service,
- (d) the provider of a booking service, if the vehicle is a hire vehicle or taxi used to provide a related booked service,
- (e) the holder of a taxi licence for the taxi, if the vehicle is a taxi,
- (f) the owner of the vehicle.

## **Division 5 Provision of information**

### **25 Information to be made available to hirer by booking service provider**

- (1) Information about a taxi or hire vehicle and the driver that is booked by the provider of a booking service must be made available to the person who books the service.
- (2) The information must be sufficient to enable the proposed passenger to identify the vehicle and the driver.
- (3) If the booking is made for a wheelchair accessible hire vehicle or wheelchair accessible taxi, the proposed passenger must be notified of the estimated time of arrival of the vehicle at the nominated collection point within a reasonable time before that arrival.
- (4) This safety standard is specified for the provider of a booking service.

## **Division 6 Drivers**

### **26 Disqualifying offences**

- (1) A person must not drive a taxi or hire vehicle that is being used to provide a passenger service if the person has been found guilty of a disqualifying offence for a driver.
- (2) The following are the disqualifying offences for a driver:
  - (a) an offence that is a personal violence offence within the meaning of the *Crimes (Domestic and Personal Violence) Act 2007*,
  - (b) any offence involving the supply of a prohibited drug or a precursor, the cultivation (for a commercial purpose) or the supply of a prohibited plant, within the meaning of the *Drug Misuse and Trafficking Act 1985*,
  - (c) any offence relating to the possession or use of a firearm or imitation firearm (within the meaning of the *Firearms Act 1996*) or other weapon,
  - (d) any offence involving fraud, dishonesty or stealing,
  - (e) any offence involving robbery (whether armed or otherwise),
  - (f) any offence involving damage to property exceeding \$5,000,
  - (g) any offence involving an assault of any kind against a person,
  - (h) an offence under Division 15, 15A or 15B of Part 3 of the *Crimes Act 1900*,
  - (i) an offence under Part 4A of the *Crimes Act 1900*,
  - (j) any offence involving participation in a criminal group or participation in any criminal activity of a criminal group within the meaning of Division 5 of Part 3A of the *Crimes Act 1900*,
  - (k) except as provided by subclause (3), a major offence within the meaning of the *Road Transport Act 2013*,
  - (l) an offence under Division 2 of Part 2 of the Act,

- (m) an offence under section 28 of the Act,
  - (n) a second or subsequent offence under section 47 of the Act or under section 30 of the *Passenger Transport Act 1990*,
  - (o) an offence under clause 13 of Schedule 4 to the Act,
  - (p) a second or subsequent offence under clause 66 or 85,
  - (q) an offence under clause 60, 61 or 74, if the person has been convicted by a court of the offence,
  - (r) any other offence that is punishable by a term of imprisonment of 5 years or more,
  - (s) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind listed in this clause or of being an accessory to or aiding or abetting the commitment of an offence of a kind listed in this clause,
  - (t) an offence under a law of another State or Territory, the Commonwealth or a foreign jurisdiction that, if committed in New South Wales, would constitute an offence listed in this clause.
- (3) Despite subclause (2), an offence under section 111 (3) of the *Road Transport Act 2013* is not a disqualifying offence unless the offence is a second or subsequent offence under that subsection committed within 5 years of a previous offence under that subsection.
- (4) The following are responsible persons for the safety standard specified by this clause:
- (a) the provider of a taxi service (other than an affiliated provider), if the driver drives taxis for the service,
  - (b) the facilitator of an affiliated service, if the driver drives taxis for the service,
  - (c) the provider of a booking service, in the case of the driver of a taxi or hire vehicle used to provide a related booked service.

## 27 Ineligible drivers

- (1) A person must not drive a taxi or hire vehicle that is being used to provide a passenger service unless:
- (a) the person has held an unrestricted Australian driver licence for a total of at least 12 months in the preceding 2 years, and
  - (b) the person meets the medical standards for commercial vehicle drivers set out in *Assessing Fitness to Drive*, published by Austroads and the National Transport Commission, as in force from time to time.
- (2) A person must not drive a taxi or hire vehicle that is being used to provide a passenger service if the person is a person who:
- (a) was the holder of a driver authority under the *Passenger Transport Act 1990* that was cancelled (other than on medical grounds), or
  - (b) whose most recent application for a driver authority under that Act was rejected (within the preceding 10 years) on the grounds that the person was not considered to be of good repute and in all other respects a fit and proper person to be the driver of a public passenger vehicle.
- (3) The following are responsible persons for the safety standard specified by this clause:
- (a) the provider of a taxi service (other than an affiliated provider), if the driver drives taxis for the service,
  - (b) the facilitator of an affiliated service, if the driver drives taxis for the service,

- (c) the provider of a booking service, in the case of the driver of a taxi or hire vehicle used to provide a related booked service.
- (4) In this clause:  
***unrestricted Australian driver licence*** means:
  - (a) an unrestricted driver licence within the meaning of the *Road Transport Act 2013*, or
  - (b) a licence issued under a law in force in a State or internal Territory authorising the holder to drive a motor vehicle on a road or road related area, being a licence that is equivalent to an unrestricted driver licence within the meaning of that Act.

## **28 Driver of wheelchair accessible vehicle to be competent in loading and unloading wheelchair passengers**

- (1) A person must not drive a wheelchair accessible taxi or wheelchair accessible hire vehicle that is being used to provide a passenger service unless the person can demonstrate a level of competence in the safe loading, restraint and unloading of a person in a wheelchair to a standard equivalent to that required to complete Element 3 (Assist passengers into and out of a taxi in a manner suited to their disability) and Element 4 (Drive a taxi used by passengers with disabilities) of the competency unit *TLIC2040 Provide wheelchair accessible taxi services to passengers with disabilities* (Release 1) issued by the Commonwealth.
- (2) This safety standard is specified for the following:
  - (a) the provider of a taxi service (other than an affiliated provider) or facilitator of an affiliated service, if the driver drives taxis for the service,
  - (b) the facilitator of an affiliated service, if the driver drives taxis for the service,
  - (c) the provider of a booking service, in the case of the driver of a wheelchair accessible taxi or wheelchair accessible hire vehicle used to provide a related booked service.

## **29 English language requirements—taxi drivers**

- (1) A person must not drive a taxi that plies or stands for hire on a road or road related area in the Metropolitan transport district unless the person has sufficient competence in the English language to communicate with passengers about a hiring of the taxi and matters related to the hiring.
- (2) Without limiting subclause (1), a driver is assumed to comply with that subclause if the driver can demonstrate a level of competence that is equivalent to, or has passed an examination or an assessment and achieved results equivalent to, the levels specified below:
  - (a) for the International English Language Testing System—an overall band score of at least 5.5, with marks of at least 5.5 for speaking and listening,
  - (b) for the International Second Language Proficiency Rating—at least level 2 for reading and writing and at least level 3 for speaking and listening,
  - (c) for the course English as a Second Language offered by the Board of Studies, Teaching and Educational Studies as a Higher School Certificate Course—band 3.
- (3) The following are responsible persons for the safety standard specified by this clause:
  - (a) the provider of a taxi service (other than an affiliated provider), if the driver drives taxis for the service,
  - (b) the facilitator of an affiliated service, if the driver drives taxis for the service.

### **30 Taxi driver identity document to be displayed**

- (1) A driver of a taxi that plies or stands for hire on a road or road related area must ensure that the driver's identity document is displayed in the vehicle in accordance with clause 15.
- (2) The following are responsible persons for the safety standard specified by this clause:
  - (a) the provider of a taxi service (other than an affiliated provider), if the driver drives taxis for the service,
  - (b) the facilitator of an affiliated service, if the driver drives taxis for the service.

### **31 Driver must report changes in circumstances**

- (1) The driver of a taxi or hire vehicle must give written notice of any change in the person's circumstances that renders the person ineligible under this Regulation to drive the taxi or hire vehicle to the provider of:
  - (a) any taxi service for which the taxi is used, or
  - (b) any booking service for which the taxi or hire vehicle provides related booked services.
- (2) The notice must be given by the driver within 7 days of the driver becoming aware of the change in circumstances.

## **Division 7 Notifiable occurrences**

### **32 Notifiable occurrences**

- (1) For the purposes of section 24 (1) of the Act, a notifiable occurrence must be reported to the Commissioner:
  - (a) within 3 days after the provider becomes aware of the accident or incident concerned, and
  - (b) in a form approved by the Commissioner.
- (2) The following are exempted from section 24 of the Act:
  - (a) a provider of a passenger service other than a taxi service,
  - (b) an affiliated provider.

## **Part 3 Authorisation of providers of passenger and booking services**

### **Division 1 Applications for authorisations**

#### **33 Combined applications**

A person may apply for authorisation as a provider of a taxi service and as a provider of a booking service in one combined application.

#### **34 Partnership entity may apply for authorisation**

For the purposes of section 30 (1) (d) of the Act, Rasier Pacific V.O.F. and Uber Pacific V.O.F., unlimited partnerships established in the Netherlands, are prescribed as entities that may apply for authorisation to provide a booking service.

#### **35 Authorisation standard—applicants**

For the purposes of section 31 (6) of the Act, it is a standard for authorisation that the applicant has not, within the period of 12 months preceding the application:

- (a) made an application for an authorisation that has been refused, or
- (b) had an authorisation held by the person cancelled.

#### **36 Authorisation standard—entities**

(1) For the purposes of section 31 (6) of the Act, the following are standards for authorisation of an entity prescribed for the purposes of section 30 (1) (d) of the Act:

- (a) 1 or more individuals as nominated managers for the purposes of authorisation are nominated by the entity,
- (b) at least 1 nominated manager is a person who is directly involved in the day-to-day management of the booking service,
- (c) at least 1 nominated manager is a resident of this State and is authorised by the partnership entity as a person on whom documents may be served for the purposes of the Act or this regulation,
- (d) none of the nominated managers has been convicted of a disqualifying offence and there are no current proceedings against any of those managers for a disqualifying offence,
- (e) at least 1 nominated manager who is a resident of this State has access to, and is authorised to provide, any information relating to the booking service that is required to be provided to the Commissioner under this Act or for the purposes of the passenger service levy in accordance with the Act, this Regulation or the *Taxation Administration Act 1996*,
- (f) the nominated manager will provide any such information on behalf of the entity in accordance with the Act, this Regulation or the *Taxation Administration Act 1996*.

(2) The entity may at any time, by written notice given to the Commissioner, nominate, or revoke the nomination of, an individual as a nominated manager.

#### **37 Authorisation standard—close associates**

For the purposes of section 31 (6) of the Act, it is a standard for authorisation that no close associate of the applicant is a person:

- (a) who was the holder of an accreditation, or an authorisation to operate a taxi-cab network, under the *Passenger Transport Act 1990* that was cancelled



on the basis that the person was not considered to be of good repute and in all other respects a fit and proper person to be so accredited or authorised, or

- (b) whose most recent application for any such accreditation or authorisation was rejected on the grounds that the person was not considered to be of good repute and in all other respects a fit and proper person to be so accredited or authorised.

### **38 Authorisation standard—nominated directors or managers**

- (1) For the purposes of section 31 (6) of the Act, it is a standard for authorisation that a nominated director or manager has not been, at any time, a nominated director or manager for a person who held an authorisation and who was, while holding the authorisation, convicted of a disqualifying offence referred to in clause 39.
- (2) For the purposes of section 31 (6) of the Act, it is a standard for authorisation that a nominated director or manager of the applicant is not a person:
  - (a) who was the holder of an accreditation, or an authorisation to operate a taxi-cab network, under the *Passenger Transport Act 1990* that was cancelled on the basis that the person was not considered to be of good repute and in all other respects a fit and proper person to be so accredited or authorised, or
  - (b) whose most recent application for any such accreditation or authorisation was rejected on the grounds that the person was not considered to be of good repute and in all other respects a fit and proper person to be so accredited or authorised.

### **39 Disqualifying offences—applicants and nominated directors or managers**

- (1) For the purposes of section 32 of the Act and clause 36 (1) (d), the following offences are prescribed as disqualifying offences for individuals who are applicants for authorisation and nominated directors or managers of applicants for authorisation:
  - (a) an offence that is specified in clause 26 (2) (b)–(e), (i), (j), (l)–(n) and (r)–(t),
  - (b) an offence under section 48 of the Act,
  - (c) an offence under section 76 (5), 78 or 79 (4) of the Act,
  - (d) an offence under section 85, 89 or 102 of the Act,
  - (e) an offence under section 126 of the Act,
  - (f) an offence under section 31 or 32 of the *Work Health and Safety Act 2011*.
- (2) In this clause, a reference to an individual who is an applicant for authorisation includes a reference to an individual who applies with 1 or more other persons for authorisation.

### **40 Disqualifying offences—close associates**

For the purposes of section 32 of the Act, the following offences are prescribed as disqualifying offences for close associates of applicants for an authorisation:

- (a) an offence under section 16 or 17 of the Act,
- (b) an offence under section 28 of the Act,
- (c) a second or subsequent offence under section 47 of the Act,
- (d) an offence under section 79 (4) of the Act,
- (e) an offence under section 31 or 32 of the *Work Health and Safety Act 2011*.

## Division 2 Authorisation conditions

### 41 Conditions of authorisation

It is a condition of an authorisation that the provider of a taxi service or booking service must comply with the provisions of this Division that apply to the provider.

**Note.** It is an offence under section 29 of the Act (with a maximum penalty of 1,000 penalty units) to contravene a condition of authorisation. An authorisation may also be varied, suspended or cancelled if a condition is not complied with (see section 45 of the Act).

### 42 Information to be provided

- (1) The provider of a taxi service or the provider of a booking service must notify the Commissioner in writing of any of the following changes within 21 days of the change occurring:
  - (a) if a nominated director or manager for the service ceases to reside in this State or to be directly involved in the day-to-day management of the service,
  - (b) a change of address of the premises from which the service is carried on,
  - (c) a change of address of the premises at which records relating to the service are kept.
- (2) The provider of a taxi service (other than an affiliated provider), the facilitator of an affiliated service or the provider of a booking service must keep a record of the following information:
  - (a) the name and driver licence number of drivers who drive vehicles used for the purposes of providing the taxi service, the affiliated service or a related booked service,
  - (b) the registration number of each vehicle used to provide the taxi service, the affiliated service or a related booked service,
  - (c) in the case of a facilitator of an affiliated service, the name and address of the place of business of the affiliated provider.
- (3) The provider must, if requested to do so in writing by the Commissioner, give to the Commissioner copies of any record required to be kept under this clause.
- (4) A record required to be kept under this clause is to be kept in a form approved by the Commissioner.

### 43 Records of passenger service transactions

- (1) A booking service provider must keep a record of each booking for a passenger service for a period of not less than 2 years after the booking is taken (whether or not the booking request is made by or on behalf of the passenger or is referred by another booking service provider).
- (2) If the request is not referred to another booking service provider, the record must contain the following information:
  - (a) the date of the journey and the time at which it commenced and ended,
  - (b) the location of the commencement and end of the journey,
  - (c) the full name of the driver of the vehicle and the identification number shown on the driver identity document of the driver (in the case of the driver of a taxi),
  - (d) the vehicle registration number of that vehicle,
  - (e) contact information, such as a phone number or email or residential address of at least one of the passengers or the person who made the booking or the person to whose account the booking was charged,

- (f) if the booking request was made to a booking service but referred to another booking service, the name of each booking service.
- (3) If the request is referred to another booking service provider, the record must contain the following information:
  - (a) the name of the booking service provider to which the request is referred,
  - (b) contact information, such as a phone number or email or residential address of at least one of the passengers or the person who made the booking or the person to whose account the booking was charged.
- (4) The provider must, if requested to do so in writing by the Commissioner, give to the Commissioner copies of any record required to be kept under this clause.
- (5) A record required to be kept under this clause is to be kept in a form approved by the Commissioner.

#### 44 Condition for entities

An entity prescribed for the purposes of section 30 (1) (d) of the Act must give written notice to the Commissioner within 21 days if a nominated manager ceases to comply with the applicable authorisation standards specified under this Regulation.

### Division 3 Authorisation fees

#### 45 Authorisation fees

- (1) The following authorisation fees, as adjusted under this clause, are payable on or before the end of each financial year by an authorised provider of a taxi service or a booking service:
  - (a) if the person is only authorised to provide a taxi service or a booking service—\$180, or
  - (b) if the person is authorised to provide both a taxi service and a booking service—\$240.
- (2) An additional authorisation fee of \$0.03 is payable by each authorised provider for each passenger service transaction carried out by the provider.
- (3) For the purposes of subclause (1), the adjusted amount is:
  - (a) in the financial year 2017/2018—the fee specified in subclause (1) (a) or (b) (the *base fee*), and
  - (b) in each subsequent financial year—the amount calculated as follows:
$$F \times \frac{A}{B}$$
where:
    - F* is the base fee.
    - A* is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.
    - B* is the CPI number for the March quarter of 2017.
- (4) However, if an amount calculated under subclause (3) for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.
- (5) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Commissioner is required to publish on the NSW legislation website a notice of the adjusted amounts payable under subclause (1) for

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# public consultation draft

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Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017 [NSW]  
Part 3 Authorisation of providers of passenger and booking services

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the next financial year. That notice may be published by the addition of an editorial note relating to the amounts of the fees in the in force version of this Regulation published on the NSW legislation website.

- (6) The Commissioner is also required to give public notice on an appropriate government website of the amounts applying in each financial year under subclause (1) resulting from the application of the calculation under this clause.
- (7) This clause operates to change an amount payable under subclause (1) and that change is not dependent on the publication of a notice by the Commissioner under this clause.
- (8) In this clause:  
*CPI number* means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.  
*financial year* means a period of 12 months commencing on 1 July.
- (9) For the purposes of determining the amounts payable under subclause (2), the Commissioner may rely on the returns furnished under Schedule 4 to the Act or may, by written notice given to the provider, require the provider to provide information as to the number of passenger service transactions carried out by the provider during the relevant financial year.
- (10) A person must not fail to comply with a notice given to the person under this clause. Maximum penalty: 10 penalty units.

## Part 4 Taxi licences

### Division 1 General matters relating to applications and licences

#### 46 Fees exemption

An applicant for a taxi licence is exempt from the requirement set out in section 51 (3) (c) of the Act, unless a fee is prescribed for the particular application in Schedule 1 to this Regulation.

#### 47 Reduction or waiver of fees for licences for taxis

- (1) For the purposes of section 63 (2) of the Act, the circumstances in which TfNSW may fix the licence fee for a taxi licence other than by inviting bids at a public auction or by seeking tenders are as follows:
  - (a) if TfNSW is of the opinion that the service concerned would, for economic or other reasons, be unlikely to be provided if the full licence fee were to be imposed,
  - (b) if the licence is subject to conditions that restrict:
    - (i) the days on which the taxi may be used for a taxi service, or
    - (ii) the times during which the taxi may be used for a taxi service, or
    - (iii) the taxi services for which the taxi may be used.
- (2) Without limiting subclause (1) (a), TfNSW may form an opinion of the kind referred to in that paragraph if the service is to be provided for the benefit of persons who have disabilities.

#### 48 Notice of lease, sublease or arrangement

- (1) For the purposes of section 67 (2) of the Act, a notice of the lease or sublease of a taxi licence, or an arrangement to confer the benefit of a taxi licence, must specify the following matters:
  - (a) the name, date of birth, residential address, telephone number and email address for service (if any) of the lessee, sublessee or person having the benefit of the arrangement,
  - (b) the date on which the lease, sublease or arrangement took effect,
  - (c) the amount of any consideration paid or payable under the lease, sublease or arrangement.
- (2) It is a condition of a taxi licence that the holder of the licence must, as soon as practicable after a lease or sublease of the licence to the holder, give written notice of the information referred to in subclause (1) (a) and (b) to the authorised provider who uses the taxi to provide a taxi service.

### Division 2 Licence conditions

#### 49 Conditions of taxi licence

It is a condition of a taxi licence that the holder of the licence must ensure that the taxi complies with, or is operated in accordance with, the provisions of this Division that apply to or in respect of the taxi.

**Note.** It is an offence under section 48 of the Act (with a maximum penalty of \$110,000) to contravene a condition of a taxi licence. A taxi licence may also be varied, suspended or cancelled if a condition is not complied with (see section 69 of the Act).

**50 Monthly payment of fees**

- (1) This clause applies if the fees for a taxi licence are payable by monthly instalments.
- (2) Each instalment of a fee must be paid on or before the due date, as notified by the Commissioner to the licence holder.

**51 Peak availability licences**

- (1) A taxi for which a peak availability licence is held must not be used to provide a taxi service between the hours of 5 am and 12 pm.
- (2) In this clause:  
*peak availability licence* means a taxi licence of category TX05, TX06, TX06A or TX 12 Annual.

## Part 5 Fares

### 52 Fare estimates

- (1) A person who provides a fare estimate for the purposes of section 79 of the Act must also include the following information in that estimate:
  - (a) information about when the fare may be varied and the amount of the variation or how any variation is to be calculated, and
  - (b) information about any other fees and charges applicable to the provision of the relevant booking service or passenger service.

Maximum penalty: 50 penalty units.

- (2) For the purposes of section 79 (2) (b) of the Act, a fare estimate, including an estimate of variations, may be expressed as an amount per hour, a rate per distance travelled or a set amount.
- (3) A person must not commence to provide a related booked service to a passenger unless the fare estimate for the journey has been accepted by or on behalf of the passenger.

Maximum penalty:

- (a) in the case of a driver—20 penalty units, or
- (b) in any other case—50 penalty units.

### 53 Taxi fare structures

- (1) The provider of a taxi service (other than an affiliated provider) or the facilitator of an affiliated service must establish fares for the provision of transport by taxis that ply or stand for hire on a road or road related area and are used to provide the service.

Maximum penalty: 20 penalty units.

**Note.** Any fare determined cannot exceed any fare applicable under a fares order (see section 76 (5) of the Act).

- (2) Any cleaning fee for soiling of a taxi by a passenger that is contained in the fares established by a provider under this clause must not be of an amount that exceeds the amount that may be charged where the driver of a taxi waits for 1 hour for a passenger.

### 54 Publication of taxi fares

The provider of a taxi service (other than an affiliated provider) or facilitator of an affiliated service must ensure that information about the fares and charges payable by passengers who use the service is available on any website that is maintained by the provider or facilitator as the provider's or facilitator's official website and that copies of that information are made available by the provider to potential passengers on request.

Maximum penalty: 50 penalty units.

### 55 Payment of fares

- (1) After the termination of a hiring (including a termination under clause 80), the hirer must pay to the driver of the taxi, or as agreed with the provider of the service, any unpaid amount of the authorised fare for the hiring.

Maximum penalty: 5 penalty units.

- (2) This clause is subject to clause 56.

## **56 Pre-payment scheme for taxi fares**

- (1) The pre-payment scheme set out in this clause applies to taxis hired at a place, or in an area, specified by TfNSW by order published in the Gazette.
- (2) The driver of a taxi may, before a hiring starts or at any time during a hiring, require the hirer to pay a deposit of not more than an amount equal to the driver's reasonable estimate of the authorised fare for the proposed journey or the agreed fare (if the driver and passenger have agreed the fare is to be less than the authorised fare).
- (3) A driver who receives payment of a deposit under this clause must, on the request of the hirer, give the hirer a receipt for the deposit.  
Maximum penalty: 10 penalty units.
- (4) A driver who receives payment of a deposit based on an estimate of the authorised fare under this clause must, on the termination of the hiring (or on the hirer leaving the taxi in compliance with a direction to do so), refund to the hirer any amount by which the deposit exceeds the authorised fare for the journey.  
Maximum penalty: 10 penalty units.
- (5) After the termination of a hiring (or on leaving the taxi in compliance with a direction to do so), a hirer who paid a deposit based on an estimate of the authorised fare under this clause must pay to the driver of the taxi the amount (if any) by which the authorised fare exceeds the deposit.  
Maximum penalty: 10 penalty units.
- (6) This clause does not apply if the fare is subject to payment using the taxi Transport Subsidy Scheme established by TfNSW.

## **57 Fare may exceed authorised fare if out of area service**

The driver of a taxi is exempt from section 76 (5) of the Act if:

- (a) the driver demands (or enters into an agreement to accept) more than the authorised fare for any hiring of the taxi, and
- (b) the taxi is hired to convey a passenger to a place outside the taxi's area of operation, and
- (c) the fare is negotiated and agreed with the hirer before the start of the journey.



## Part 6 Other obligations relating to passenger and booking services

### Division 1 Driver obligations for passenger services generally

#### 58 Definition

In this Division, *passenger vehicle* means a taxi or a hire vehicle.

#### 59 Driver not to smoke in vehicle

- (1) The driver of a taxi must not smoke in the vehicle, whether or not the taxi is being used to provide a taxi service.  
Maximum penalty: 10 penalty units.
- (2) The driver of a hire vehicle must not smoke in the vehicle while the vehicle is being used to provide a passenger service.  
Maximum penalty: 10 penalty units.
- (3) In this clause, *smoke* has the same meaning as it has in the *Smoke-free Environment Act 2000*.

#### 60 Offensive behaviour by drivers

- (1) A driver of a passenger vehicle must not, while the vehicle is being used to provide a passenger service or is being used in connection with a passenger service:
  - (a) behave in an offensive manner in the vehicle or the vicinity of the vehicle, or
  - (b) intentionally interfere, or intentionally attempt to interfere, with the comfort or safety of other persons.Maximum penalty: 20 penalty units.
- (2) It is a defence to a prosecution for an offence under this clause if the defendant satisfies the court that the defendant had a reasonable excuse for the alleged behaviour.

#### 61 Driver not to interfere with equipment of, or damage, vehicle

- (1) The driver of a passenger vehicle must not:
  - (a) without reasonable excuse, interfere with any equipment attached to, or forming part of, the vehicle, or
  - (b) intentionally damage any part of the vehicle.Maximum penalty: 20 penalty units.
- (2) Subclause (1) (a) does not apply to equipment referred to in clause 74.

#### 62 Driver not to drive non-compliant vehicle

The driver of a passenger vehicle must not drive a passenger vehicle for the purposes of a passenger service if the driver knows, or ought reasonably to know, that the vehicle, or any equipment installed in or on the vehicle, contravenes a requirement of this Regulation.

Maximum penalty: 20 penalty units.

#### 63 Additional passengers

The driver of a passenger vehicle that is being used to provide a passenger service must not permit any person to ride in the vehicle without the consent of the hirer.

Maximum penalty: 10 penalty units.

## 64 Assistance animals

- (1) The driver of a passenger vehicle must not refuse to carry an assistance animal or an assistance animal in training in or on the vehicle.  
Maximum penalty: 10 penalty units.
- (2) In this clause:  
*assistance animal* means an assistance animal referred to in section 9 (2) of the *Disability Discrimination Act 1992* of the Commonwealth.

## 65 Wheelchair accessible vehicles

- (1) The driver of a wheelchair accessible taxi or wheelchair accessible hire vehicle that is available for hire must accept a hiring offered by a person using a wheelchair in preference to a hiring offered by a person not using a wheelchair.  
Maximum penalty: 10 penalty units.
- (2) The driver of a wheelchair accessible taxi or wheelchair accessible hire vehicle who is conveying a person using a wheelchair must ensure that the wheelchair is safely secured to the vehicle throughout the hiring.  
Maximum penalty: 10 penalty units.

## 66 No touting or soliciting for passengers

- (1) The driver of a passenger vehicle or any other person must not tout or solicit for passengers for, or for a hiring of, a vehicle.  
Maximum penalty:
  - (a) in the case of an offence committed in the Sydney Airport precinct—50 penalty units, or
  - (b) in any other case—5 penalty units.
- (2) This clause does not apply to an inquiry of persons as to whether they are waiting for the specific booked service provided by the passenger vehicle.

## 67 Driver to be hired only at specific zones—Sydney Airport precinct and other airports

- (1) The driver of a passenger vehicle must not, while in the Sydney Airport precinct or at any other airport, stop the vehicle for the purpose of setting down or picking up passengers except in a designated area for that kind of vehicle.  
Maximum penalty: 50 penalty units.
- (2) In this clause:  
*designated area* for a passenger vehicle means an area in the Sydney Airport precinct or at another airport that is designated by signs erected with the approval of the Sydney Airport Corporation Limited or the manager of the airport as an area for the setting down and picking up of passengers of that kind of vehicle.

## 68 Driver to remain with vehicle—Sydney Airport precinct and other airports

- (1) The driver of a passenger vehicle in the Sydney Airport precinct or at another airport must not, without reasonable excuse, move more than 3 metres from the vehicle.  
Maximum penalty: 15 penalty units.
- (2) This clause does not apply:
  - (a) if the driver of a passenger vehicle moves more than 3 metres from the vehicle for the purpose of loading luggage or goods into, or removing luggage or goods from, the vehicle, or

- (b) to the driver of a taxi while the taxi is in a holding bay in the Sydney Airport precinct.

## **69 Directions to driver by authorised officers**

- (1) An authorised officer may, for the purpose of ensuring that passenger services are provided in the Sydney Airport precinct in a manner that is safe, reliable and efficient, direct the driver of a passenger vehicle in the Sydney Airport precinct, by means of a sign or by any other reasonable method:
  - (a) to stop the vehicle, or
  - (b) to move the vehicle in a particular direction or to a particular location in the Sydney Airport precinct.
- (2) The driver of a passenger vehicle must not, without reasonable excuse, fail to comply with a direction given to the driver under this clause.  
Maximum penalty: 10 penalty units.

## **70 Driver to supply information on hirings**

- (1) An authorised officer may require the driver of a passenger vehicle to answer questions relating to the following:
  - (a) whether the driver's vehicle is hired,
  - (b) the particulars of the hiring, including any booking particulars and the booking service provider,
  - (c) if the driver indicates that the vehicle is hired, the details of that hiring.
- (2) The driver of a passenger vehicle must not, without reasonable excuse, fail to comply with a requirement made of the driver under this clause.  
Maximum penalty: 10 penalty units.

## **71 Driver to hand over driver licence for inspection**

- (1) The driver of a passenger vehicle must, at the request of an authorised officer, hand his or her driver licence to the authorised officer for inspection.  
Maximum penalty: 10 penalty units.
- (2) In this clause:  
*driver* includes a person who:
  - (a) is occupying the driver seat of a vehicle that is on a road or road related area, or
  - (b) is otherwise apparently in charge of such a vehicle.

## **Division 2 Taxi services**

### **72 Application of Division**

This Division (other than clauses 74, 77, 80, 81 and 84) applies only in respect of a taxi that plies or stands for hire on a road or road related area.

### **73 Use of taxi outside area of operation**

A person must not cause or permit a taxi to be used to provide a taxi service outside the area of its operation (if any) specified in the taxi licence for the taxi.

Maximum penalty:

- (a) in the case of a body corporate—10 penalty units, or
- (b) in any other case—5 penalty units.

## **74 Interference with safety devices**

- (1) A person must not intentionally:
  - (a) interfere with any part of an approved vehicle tracking device fitted to a taxi,  
or
  - (b) cause or permit any such interference,  
in a manner that prevents or impedes the proper working of the device.  
Maximum penalty: 50 penalty units.
- (2) A person must not intentionally:
  - (a) interfere with any part of an approved security camera system fitted to a taxi,  
or
  - (b) cause or permit any such interference,  
in a manner that prevents or impedes the proper working of the system.  
Maximum penalty: 50 penalty units.
- (3) A person must not intentionally:
  - (a) interfere with any part of a fare calculation device fitted to a taxi, or
  - (b) cause or permit any such interference,  
in a manner that prevents or impedes the proper working of the device.  
Maximum penalty: 50 penalty units.
- (4) A person must not intentionally:
  - (a) interfere with any part of a duress alarm fitted to a taxi, or
  - (b) cause or permit any such interference,  
in a manner that prevents or impedes the proper working of the duress alarm.  
Maximum penalty: 50 penalty units.
- (5) Nothing in this clause prevents any authorised officer or other person authorised by the Commissioner for the purposes of this clause from carrying out an inspection, check or other test of, or performing any proper function in relation to, a vehicle tracking device, security camera system, fare calculation device or duress alarm.

## **75 Standing otherwise than in a taxi zone**

The driver of a taxi must not permit the taxi to stand otherwise than in a taxi zone, except as follows:

- (a) while hired,
- (b) while not available for hire,
- (c) while loading or unloading luggage or goods or taking up or setting down passengers,
- (d) at the direction or with the consent of a police officer.

Maximum penalty: 10 penalty units.

## **76 Use of taxi zones**

The driver of a taxi must not cause or allow the taxi to stand in a taxi zone if the taxi is hired or not available for hire.

Maximum penalty: 10 penalty units.

## **77 Driver of taxi to accept hiring**

- (1) The driver of a taxi that is available for hire must accept a hiring immediately when offered.  
Maximum penalty: 10 penalty units.
- (2) However, the driver of a taxi may refuse to accept a hiring in any of the following circumstances:
  - (a) if acceptance would result in a breach of the *Road Rules 2014*,
  - (b) in the case of a driver who is proceeding to a destination for the purpose of terminating a driving shift, if the intending passenger indicates that he or she wishes to be taken to a location that is not on the way to that destination,
  - (c) if the intending passenger indicates that he or she wishes to be taken to a location that is outside the taxi's area of operation,
  - (d) if the intending passenger is smoking, or drinking alcohol, and refuses to stop doing so,
  - (e) if the intending passenger is a person who is, or who is carrying a thing that is, likely to soil or damage the taxi or the clothing or luggage of other passengers, or to otherwise cause inconvenience, a nuisance or annoyance to other passengers or to the driver,
  - (f) if one of the intending passengers is under the age of 1 year and neither the driver of the taxi nor any other intending passenger is carrying a child restraint that complies with the applicable requirements of rule 266 of the *Road Rules 2014*,
  - (g) if the intending passenger cannot, on request, satisfy the driver that the person is able to pay the estimated fare,
  - (h) if the intending passenger, on request in accordance with clause 56, refuses to pay the deposit in accordance with that clause.

## **78 Peak availability taxis**

The driver of a taxi for which a peak availability licence is held must not use the taxi for the purposes of a passenger service between the hours of 5 am and 12 pm.  
Maximum penalty: 5 penalty units.

## **79 Multiple hiring of taxis**

- (1) The driver of a taxi may accept separate hirings from 2 or more persons concurrently if:
  - (a) all of the hirers commence the hiring of the taxi at the same time, and
  - (b) each of the hirers agrees that the driver may accept the other hirings, and
  - (c) all of the hirers are travelling to destinations in the same locality or the same general direction.
- (2) A driver of a taxi must not accept separate hirings from 2 or more persons concurrently otherwise than in accordance with this clause.  
Maximum penalty: 10 penalty units.

## **80 Termination of hiring**

- (1) The hirer of a taxi may terminate the hiring at any time.
- (2) The driver of a taxi may terminate a hiring in the following circumstances:
  - (a) on any ground on which the driver could refuse to accept a hiring under this Division,

- (b) without limiting paragraph (a), on any ground set out in clause 77 (2) (a)–(h) or if the driver is reasonably of the opinion that the passenger is contravening clause 87,
- (c) if any passenger who is under 16 years of age is not wearing a seatbelt or other restraint that is properly adjusted and securely fastened.

## **81 Direction to leave taxi**

- (1) A driver of a taxi or an authorised officer may direct a person to leave, or not to enter, the taxi if the driver or authorised officer is of the opinion that any of the circumstances set out in clause 77 (2) (a)–(h) exist in relation to the person.
- (2) A person who is given a direction under subclause (1) must comply with it.  
Maximum penalty: 10 penalty units.

## **82 Operation of fare calculation device by taxi driver**

- (1) The driver of a taxi to which a fare calculation device is fitted:
  - (a) must not start the device before the taxi is hired, and
  - (b) as soon as the taxi is hired, must start the device, and
  - (c) during any hiring, must keep the device running, and
  - (d) during any hiring, must stop the device for as long as may be necessary to prevent it from registering a charge in any period during which:
    - (i) a hirer in a multiple hire is paying the fare for his or her hire and getting out of the taxi, or
    - (ii) the taxi is delayed because of any shortage of fuel or any accident to the tyres, mechanism or any other portion of the taxi, or
    - (iii) the taxi is delayed for any reason that may be prevented by the driver.  
Maximum penalty: 10 penalty units.
- (2) The driver of a taxi that is hired as a result of the taking of a booking for the taxi must, if the fare is subject to payment using the Taxi Transport Subsidy Scheme established by TfNSW, ensure that the fare calculation device is operated for the purposes of the hire in accordance with subclause (1).  
Maximum penalty: 10 penalty units.

## **83 Wheelchair accessible taxis**

- (1) Despite any other provision of this Part, a driver of a wheelchair accessible taxi to which a fare calculation device is fitted must not start the device before the taxi is ready to safely transport a passenger in a wheelchair.  
Maximum penalty: 10 penalty units.
- (2) For the purposes of this Part, the hiring of a wheelchair accessible taxi by a person using a wheelchair terminates (unless it is sooner terminated) when the taxi stops at the hirer's destination.

## **84 Stand-by taxis**

- (1) For the purposes of section 49 (2) (f) of the Act, a stand-by taxi used as a wheelchair accessible taxi must comply with the requirements of this Regulation relating to the equipment and construction of a wheelchair accessible taxi.
- (2) A taxi service provider who uses a stand-by taxi to provide the service must, while the taxi is operating as such, display on it a sign with the words "STAND-BY TAXI" clearly visible from the front of the taxi.  
Maximum penalty: 10 penalty units.

## **Division 3 Hire vehicles**

### **85 No plying or standing for hire**

The driver of a hire vehicle must not:

- (a) ply, stand or park the hire vehicle for hire on any road or road related area, or
- (b) use the hire vehicle to carry out a hiring other than for a booking made before the driver stops the vehicle at the place where the passenger is picked up, or
- (c) not stop, stand or queue in a taxi zone.

Maximum penalty: 30 penalty units.

### **86 Direction to leave hire vehicle**

- (1) A driver of a hire vehicle or an authorised officer may direct a person to leave, or not to enter, the hire vehicle if the driver or authorised officer is of the opinion that any of the following circumstances exist in relation to the person:

- (a) if continuing the hire would result in a breach of the *Road Rules 2014*,
- (b) if the person is smoking, or drinking alcohol, and refuses to stop doing so,
- (c) if the person is, or is carrying a thing that is, likely to soil or damage the hire vehicle or the clothing or luggage of other passengers, or to otherwise cause inconvenience, a nuisance or annoyance to other passengers or to the driver,
- (d) if one of the intending passengers is under the age of 1 year and neither the driver of the hire vehicle nor any other intending passenger is carrying a child restraint that complies with the applicable requirements of rule 266 of the *Road Rules 2014*,
- (e) if the person cannot, on request, satisfy the driver that the person is able to pay, or has paid, the fare.

- (2) A person who is given a direction under subclause (1) must comply with it.

Maximum penalty: 10 penalty units.

## **Division 4 Passenger conduct**

### **87 Passenger conduct offences**

A passenger of a taxi or hire vehicle must not:

- (a) soil or damage the vehicle, or
- (b) smoke in the vehicle, or
- (c) behave in an offensive manner, or
- (d) use any offensive language, or
- (e) intentionally interfere with the comfort or safety of other persons.

Maximum penalty:

- (a) for a breach of paragraph (a)—20 penalty units,
- (b) in any other case—10 penalty units.

## Part 7 Miscellaneous

### 88 Authorised officers

- (1) For the purposes of section 107 of the Act, the following classes of persons are prescribed:
  - (a) persons employed in the Transport Service within the meaning of the *Transport Administration Act 1988*,
  - (b) other persons employed in the government sector (within the meaning of the *Government Sector Employment Act 2013*),
  - (c) persons engaged by TfNSW, Roads and Maritime Services or the Commissioner under a contract for services,
  - (d) persons engaged by Sydney Airport Corporation Limited to provide road traffic management services.
- (2) A person referred to in subclause (1) (c) or (d) may only exercise the functions of an authorised officer if the exercise of those functions is subject to the control and direction of the Commissioner.

**Note.** Schedule 2 sets out offences under the Act and this Regulation for which penalty notices may be issued.

### 89 Unauthorised use of recording

A person must not use a video recording made by a security camera system of a taxi for a purpose other than a purpose authorised by the Commissioner by notice in writing published in the Gazette.

Maximum penalty: 20 penalty units.

### 90 Transport services that are not passenger services

For the purposes of section 4 (4) of the Act the following are not passenger services:

- (a) the provision of transport under the Assisted School Travel Program of the Department of Education,
- (b) the provision of transport for patients that is facilitated by a hospital and transport services for patients provided by the Ambulance Service of NSW,
- (c) the provision of transport services for persons in custody by or on behalf of Corrective Services NSW.

### 91 Car pooling not passenger service

For the purposes of section 4 (4) of the Act, the provision of transport in all of the following circumstances is not a passenger service:

- (a) the driver of a vehicle proceeding to a destination regularly provides transport to passengers who wish to proceed to the same destination or a destination that is in the same locality or the same general direction,
- (b) the driver is not a provider of a booking service or otherwise the provider of a passenger service or an employee, contractor or bailee for a booking service or passenger service,
- (c) no consideration is payable to any person for the provision of the transport,
- (d) despite paragraph (c), an amount may be paid to the driver to reimburse actual costs associated with operating the vehicle and a small gift may be provided to a driver for participation in a voluntary non-profit car pooling scheme.



## **92 Travel agents not booking service providers**

- (1) For the purposes of section 7 (4) of the Act, the taking or communicating of bookings for passenger services by a travel agent in the course of carrying on business as a travel agent is not the provision of a booking service if the bookings are incidental to, and not the main part of, the business.
- (2) For the purposes of this clause, a person carries on business as a travel agent if the person carries on a business involving the following:
  - (a) selling tickets entitling another person to travel, or otherwise arranging for another person a right of passage, on a vehicle, vessel, plane or other conveyance,
  - (b) selling to, or arranging or making available for, another person rights of passage to, and hotel or other accommodation at, one or more places, whether within or outside this State,
  - (c) purchasing for resale the right of passage on a vehicle, vessel, plane or other conveyance,
  - (d) making arrangements in connection with travel.

## **93 Exemptions**

- (1) The Commissioner may, by order in writing, exempt a person or a vehicle, or a class of persons or vehicles, from all or any of the provisions of the Act or any regulation under the Act.
- (2) An exemption under this clause may be conditional or unconditional and, if the exemption is conditional, it ceases to have effect if the conditions are not observed.
- (3) Notice of an exemption given under this clause is to be given by notice published in the Gazette and in any other manner that the Commissioner considers appropriate in the circumstances of the case.

## **94 Appointment of taxi zones**

- (1) The Commissioner may, with the approval of the roads authority for the road concerned, appoint taxi zones for taxis.
- (2) Taxi zones are to be indicated by signs erected on or near a road.
- (3) A sign referred to in this clause may specify the class or classes of taxis that may use the taxi zone to which it relates.
- (4) If times are specified on a sign referred to in this clause, the sign operates only during those times, but if no times are so specified the sign operates at all times.
- (5) A police officer may appoint temporary taxi zones at any place where taxis are congregated.

## **95 Requirements relating to information disclosure**

- (1) This clause applies if, under the Act, the Commissioner discloses personal information about a person who drives a taxi or hire vehicle, or a person who owns a taxi or hire vehicle used for the provision of transport by a passenger service, to the provider of a passenger service or booking service.
- (2) The provider of the service must ensure that the personal information is kept, accessed and disclosed in accordance with any requirements approved by the Commissioner for the purposes of this clause and published in the Gazette.  
Maximum penalty: 20 penalty units.

**96 Fees**

The fee payable for a specified matter is the fee specified for that matter in Schedule 1.

**97 Transitional provision**

For the purposes of clause 35, a reference in that clause to authorisation includes a reference to accreditation under the *Passenger Transport Act 1990*.

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# public consultation draft

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Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017 [NSW]  
Schedule 1 Fees

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## Schedule 1 Fees

(Clause 96)

<b>Item</b>	<b>Matter for which fee payable</b>	<b>Fee</b>
1	Application for authorisation to provide taxi service (section 30 (3) (d) of the Act)	\$120
2	Application to renew authorisation to provide taxi service (sections 30 (3) (d) and 37 (2) of the Act)	\$120
3	Application for authorisation to provide booking service (section 30 (3) (d) of the Act)	\$120
4	Application to renew authorisation to provide booking service (sections 30 (3) (d) and 37 (2) of the Act)	\$120
5	Combined application for authorisation to provide a taxi service and to provide a booking service	\$160
6	Application for taxi licence (section 51 (3) (c) of the Act), if annual fee is to be determined by bids at auction or sealed tender	\$200
7	Application to renew taxi licence (section 51 (3) (c) of the Act), if annual fee is to be determined by bids at auction or sealed tender	\$200

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## Schedule 2 Penalty notice offences

For the purposes of section 135 of the Act:

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
<b>Offences under the Act</b>	
Section 24	\$5,500, in the case of a body corporate, and \$1,400, in any other case
Section 48, in relation to a breach of clause 51	\$600, in the case of a body corporate, and \$300, in any other case
Section 67	\$300
Section 76 (5)	\$300
Section 78 (2) or (3)	\$300
Section 126 (3) or (4)	\$440
Section 128 (2)	\$300
Section 129 (1)	\$5,000, in the case of a body corporate, and \$1,400, in any other case
Section 130 (2)	\$550
<b>Offences under this Regulation</b>	
Clause 6 (1), in relation to a breach of clause 7 (1), (2) or (3)	\$2,200, in the case of a body corporate, and \$1,100, in any other case
Clause 6 (1), in relation to a breach of clause 11 (1) (c) or (d)	\$5,500, in the case of a body corporate, and \$1,100, in any other case
Clause 6 (1), in relation to a breach of clause 13 (1)	\$1,100, in the case of a body corporate, and \$550, in any other case
Clause 6 (1), in relation to a breach of clause 13 (2) or (4)	\$300
Clause 6 (2), in relation to a breach of clause 14 (1), (2) or (3)	\$1,100, in the case of a body corporate, and \$550, in any other case
Clause 6 (1), in relation to a breach of clause 15 (1) or (2)	\$1,100, in the case of a body corporate, and \$550, in any other case
Clause 6 (1), in relation to a breach of clause 16 (1)	\$1,100, in the case of a body corporate, and \$550, in any other case

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Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017 [NSW]  
Schedule 2 Penalty notice offences

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<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
Clause 6 (1), in relation to a breach of clause 16 (2), (3), (4), (5), (6), (7), (8) or (9)	\$300
Clause 6 (1), in relation to a breach of clause 17 (1)	\$1,100, in the case of a body corporate, and \$550, in any other case
Clause 6 (1), in relation to a breach of clause 18 (1) or (2)	\$1,100, in the case of a body corporate, and \$550, in any other case
Clause 6 (1), in relation to a breach of clause 19 (1) or (2)	\$1,100, in the case of a body corporate, and \$550, in any other case
Clause 6 (1), in relation to a breach of clause 20 (1), (2), (3) or (4)	\$1,100, in the case of a body corporate, and \$550, in any other case
Clause 6 (1), in relation to a breach of clause 21 (1)	\$1,100, in the case of a body corporate, and \$550, in any other case
Clause 6 (2), in relation to a breach of clause 22 (1)	\$2,200, in the case of a body corporate, and \$1,100, in any other case
Clause 6, in relation to a breach of clause 22 (2)	\$150
Clause 6, in relation to a breach of clause 23 (1), (2), (3), (4), (5) or (6)	\$2,200, in the case of a body corporate, and \$1,100, in any other case
Clause 6 (1), in relation to a breach of clause 24 (1), (2) or (4)	\$600, in the case of a body corporate, and \$300, in any other case
Clause 6 (1), in relation to a breach of clause 26 (1), where the offender is the driver	\$1,100
Clause 6 (1), in relation to a breach of clause 27 (1), where the offender is the driver	\$1,100
Clause 6 (1) in relation to a breach of clause 30 (1), where the offender is the driver	\$300
Clause 53 (1)	\$2,200, in the case of a body corporate, and \$1,100, in any other case
Clause 54	\$1,100, in the case of a body corporate, and \$550, in any other case
Clause 56 (3), (4) or (5)	\$300
Clause 59 (1) or (2)	\$300
Clause 61 (1) (a)	\$550
Clause 63	\$300
Clause 64 (1)	\$300
Clause 65 (1)	\$150

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# public consultation draft

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Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017 [NSW]  
Schedule 2 Penalty notice offences

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<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
Clause 65 (2)	\$150
Clause 66 (1)	\$850, in the case of an offence committed in the Sydney Airport precinct, or \$550, in any other case
Clause 67 (1)	\$550
Clause 68 (1)	\$300
Clause 69 (2)	\$550
Clause 70 (2)	\$550
Clause 71	\$300
Clause 73	\$600, in the case of a body corporate, and \$300, in any other case
Clause 75	\$150
Clause 76	\$150
Clause 77 (1)	\$300
Clause 78	\$150
Clause 79 (2)	\$300
Clause 81 (2)	\$300
Clause 82 (1) or (2)	\$300
Clause 83 (1)	\$300
Clause 84 (2)	\$300
Clause 85	\$850
Clause 86 (2)	\$300
Clause 87 (a)	\$550
Clause 87 (b)	\$550
Clause 87 (c)	\$300
Clause 87 (d)	\$200
Clause 89	\$550
Clause 95 (2)	\$550
Schedule 3, clause 7 (1) or (2)	\$300

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## Schedule 3 Passenger Service Levy

### Part 1 Preliminary

#### 1 Definitions

- (1) In this Schedule:
  - Administration Act* means the *Taxation Administration Act 1996*.
  - levy amount*—see clause 4 (3) of this Schedule.
  - objection* means an objection under Part 10 of the Administration Act.
- (2) Words and expressions used in this Schedule have the same meaning as in Schedule 4 to the Act.

**Note.** Expressions used in this Schedule have the same meaning as in the Administration Act.

### Part 2 Assessment and payment of liability for levy

#### 2 Registrations by taxpayers

- (1) A person who is required to register as a taxpayer under Schedule 4 to the Act must apply to be registered not later than 21 days after first becoming liable to pay the levy.
- (2) A person who is registered as a taxpayer under Schedule 4 to the Act must notify the Point to Point Transport Commissioner of any change to the information provided by the taxpayer in the application for registration as soon as practicable after becoming aware of that change.
- (3) A person who fails to comply with this clause is guilty of an offence.

Maximum penalty: 5 penalty units.

#### 3 Arrangements for payment of levy

- (1) The arrangements for payment of the levy by a taxpayer are to be as follows:
  - (a) the amount of levy payable is to be deposited in an account in an authorised deposit-taking institution on or before the due date for payment,
  - (b) the Chief Commissioner (by arrangement with the taxpayer) is to access or appropriate that amount (such as by way of direct debit from that account).
- (2) The Chief Commissioner may permit other arrangements to be made for the payment of the levy.
- (3) The Chief Commissioner may enter into arrangements with taxpayers and other persons for the payment of the levy in accordance with this clause.

#### 4 Reduction or waiver of liability in case of third party collection

- (1) The assessor may, on application by a taxpayer or on the assessor's initiative, waive or reduce the amount of levy payable by a taxpayer, if the assessor is satisfied that:
  - (a) a levy amount was collected by a driver, affiliated provider or other person on behalf of the taxpayer, and
  - (b) the amount was not paid by that person to the taxpayer or otherwise as agreed with the taxpayer, and
  - (c) that person has been affected by a non-payment event, and
  - (d) the taxpayer took all reasonable steps to recover the amount, or to have the amount paid in accordance with the Act and this Schedule.

(2) This clause is in addition to any other power of the assessor to assess or reassess, or to waive or reduce, the liability of a taxpayer to pay the levy.

(3) In this clause:

**levy amount** means an amount paid by a person who obtains a service under a passenger service transaction to an affiliated provider, driver or any other person involved in the provision of the transaction that is:

- (a) under an agreement between the person who is paid the amount and the taxpayer, required to be paid to the taxpayer or another person for the purposes of the levy, or
- (b) the part of a fare that represents the amount payable to cover the levy, as determined by a fares order.

**non-payment event** affecting a person means:

- (a) the person has died or is no longer in Australia, or
- (b) the person has become bankrupt, or
- (c) the person has become a mentally incapacitated person.

## 5 Exemption and rebate for certain small providers

- (1) A taxpayer who carries out 150 or fewer passenger service transactions in any period of 12 months is exempt from clauses 3, 4, 7 and 12 of Schedule 4 to the Act.
- (2) A taxpayer who carries out more than 150 but fewer than 600 passenger service transactions in any period of 12 months is entitled to a rebate of the levy.
- (3) The amount of the rebate is to be the amount of rebate required so that the amount of levy payable by the taxpayer is as follows:
  - (a) if the number of passenger service transactions carried out is more than 150 but not more than 400—\$150, or
  - (b) if the number of passenger service transactions carried out is more than 400 but not more than 600—\$400.

## 6 Exemption from levy for transport in remote or very remote areas

- (1) The provider of a taxi service or booking service is exempt from clauses 3, 4, 7 and 12 of Schedule 4 to the Act in respect of a passenger transaction if the passenger service provided is carried out within, or commences or ends at a place within, a remote or very remote area of this State.
- (2) For the purposes of this clause, a place is within a remote area or very remote area of this State if it is located within an area that is so classified under the *Australian Statistical Geography Standard (ASGS)* published by the Australian Bureau of Statistics, as effective from time to time.

## 7 Information to be provided by small providers or remote providers

- (1) A person who seeks to rely on an exemption or rebate under this Part must, if required to do so by the Point to Point Transport Commissioner, confirm in writing that the person intends to rely on the exemption or rebate and provide particulars as to why the person is entitled to do so.

Maximum penalty: 10 penalty units.

- (2) A person who receives an exemption or rebate from the levy under this Part must notify the Point to Point Transport Commissioner in writing as soon as practicable after the person becomes aware that the person is no longer entitled to the exemption or rebate or is entitled to a lesser rebate.

Maximum penalty: 10 penalty units.



## **Part 3 Objections to assessments of liability**

### **8 Modification of operation of Administration Act**

Part 10 of the Administration Act is modified to the extent necessary to provide for objections to assessments in accordance with this Part.

### **9 Periods for objections**

- (1) Sections 86 (2), 89 (1) and 90 of the Administration Act are taken to be modified by omitting “60” and “60-day” wherever occurring and by inserting instead “30” and “30-day”, respectively.
- (2) The Point to Point Transport Commissioner may grant an application under section 90 of that Act to lodge an objection after the 30-day period only if satisfied that special circumstances prevented the objection from being lodged within that period.
- (3) Without limiting subclause (2), special circumstances may include the following circumstances:
  - (a) a serious illness or other personal emergency affecting the taxpayer or person or persons responsible for returns for the taxpayer,
  - (b) failure of computing or other systems, including loss of data, affecting the taxpayer’s ability to make the objection,
  - (c) an unforeseeable occurrence or circumstance outside the control of the taxpayer.
- (4) A decision by the Point to Point Transport Commissioner not to grant an application to lodge an objection after the 30-day period is a decision that may be the subject of an objection under section 86 (1) of the Administration Act.

### **10 Grounds for objection**

- (1) The only grounds on which an objection to an assessment may be made by a taxpayer are as follows:
  - (a) that there was a mistake in the return which resulted in a higher assessed liability than would have been assessed if the mistake had not been made,
  - (b) if the assessment was made on an estimated basis by the assessor, that the assessed liability was higher than would have been assessed if the assessment had been determined on the basis of the actual passenger service transactions during the assessment period.
- (2) In determining an objection to an assessment made on an estimated basis, the Point to Point Transport Commissioner may require the objector to lodge a return for the assessment period concerned.

### **11 Form of objections and information**

An objection to an assessment must contain the following information (in addition to the requirements of section 87 of the Administration Act):

- (a) the assessment and the assessment period the subject of the objection,
- (b) any relevant records supporting the objection, such as trip data, vehicle records, fare calculation device data and financial statements.

### **12 Decisions not available for objection**

- (1) A taxpayer may not lodge an objection to a decision by the assessor to make or not to make an assessment on an estimated basis.

- (2) This clause does not prevent an objection on a ground permitted by this Part.

## Part 4 Enforcement and offences

### 13 Excess levy payments by passengers

- (1) A person must not demand for the provision of a passenger service transaction (whether as part of a fare or as an additional amount) the payment of an amount in respect of the levy unless:
- (a) the amount is permitted to be included in a fare by a fares order or, if there is no applicable fares order, by the fares established by the provider of the passenger service or booking service, and
  - (b) the amount does not exceed the amount of levy payable for the transaction.
- Maximum penalty:
- (a) in the case of a body corporate—40 penalty units, or
  - (b) in any other case—20 penalty units.
- (2) This clause does not apply to any component of a fare established under a fares order that compensates for administrative costs arising out of the levy.

### 14 Authorised officers

- (1) An authorised officer under this Act may be appointed by the Point to Point Transport Commissioner as an authorised officer for the purposes of the Administration Act.
- (2) An authorised officer so appointed may exercise functions under the Administration Act only for the purposes of, or in respect of, the levy.
- (3) The Point to Point Transport Commissioner may issue an identity card for the officer in accordance with section 69 of the Administration Act.
- (4) An authorised officer may carry out a function conferred under the Administration Act when the officer is carrying out other functions under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.
- (5) This clause is in addition to section 68 of the Administration Act and that section is taken to be modified accordingly.
- (6) Section 69 of the Administration Act is taken to be modified so that the form of identity card for an authorised officer appointed under this clause is to be the form approved by the Point to Point Transport Commissioner.

### 15 Proceedings for offences

- (1) Proceedings for an offence under the Administration Act in connection with the levy or a taxpayer may be taken by the Point to Point Transport Commissioner.
- (2) This clause is in addition to section 62 of the Administration Act and that section is taken to be modified accordingly.

## Part 5 Miscellaneous

### 16 Service of documents

- (1) A document authorised or required to be served on, given to or lodged with the assessor, the Point to Point Transport Commissioner or the Chief Commissioner for the purposes of this Schedule, Schedule 4 to the Act or the Administration Act may be served, given or lodged electronically through a website approved by the Point to

Point Transport Commissioner and maintained for the purpose of facilitating the administration of the assessment, payment and collection of the levy.

- (2) A document authorised or required to be served on or given to a person by the assessor, the Point to Point Transport Commissioner or the Chief Commissioner for the purposes of this Schedule, Schedule 4 to the Act or the Administration Act may be served or given by sending it to an email address provided to the assessor, the Point to Point Transport Commissioner or the Chief Commissioner by the person concerned for the purpose of service of documents.
- (3) The Administration Act is modified to the extent necessary to permit the serving or giving of documents in accordance with this clause but without limiting any other means of doing so specified by that Act.

## **Schedule 4      Amendment of Point to Point Transport (Taxis and Hire Vehicles) Act 2016 No 34**

### **[1]      Schedule 2 Savings, transitional and other provisions**

Insert after clause 3 (9):

- (10) The Commissioner may, by notice published in the Gazette, revoke any or all conditions of a licence (other than a condition referred to in subclause (5)) that is continued by this clause.
- (11) To avoid doubt, the regulations may revoke or amend a condition continued by this clause and may impose a condition that is inconsistent with a continued condition.
- (12) A continued condition of a taxi licence has no effect to the extent that it is inconsistent with a condition imposed on the licence by the regulations.

### **[2]      Schedule 2, clause 8**

Insert after clause 8 (7):

- (8) This clause does not apply to a person who is an affiliated provider within the meaning of the Act or who, for any other reason, is exempt from the requirement to hold an authorisation to provide a taxi service or passenger service under this Act.

### **[3]      Schedule 2, clause 9**

Insert after clause 9 (8):

- (9) This clause applies to a person who, immediately before the commencement of Part 3 of this Act was an accredited operator of a taxi service and exempt from the requirements of section 31G of the 1990 Act, and so applies as if that person were the holder of a taxi-cab network authorisation referred to in subclause (1).

### **[4]      Schedule 2, clause 10**

Insert after clause 10 (1):

- (1A) A person who was, immediately before the commencement of this Act, an accredited operator of a tourist service provided by means of motorcycles or four wheel drive vehicles under the 1990 Act is taken to be an authorised provider of a booking service under this Act and this Act applies accordingly.

### **[5]      Schedule 2, clause 15**

Insert after clause 14:

#### **15      IPART investigations**

Any investigation being carried out by IPART before the commencement of section 72 or 74 of this Act, and relevant to the matters with respect to which IPART may exercise functions under either of those sections, may continue and the functions are taken to be being exercised for the purposes of the section.