



New South Wales

Passenger Transport Amendment Act 1997 No 72

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Passenger Transport Amendment Act 1997 No 72

Act No 72, 1997

An Act to amend the *Passenger Transport Act 1990* with respect to standards of service and other requirements for regular public passenger services and taxi-cab networks; to increase penalties for offences under that Act; and for other purposes. [Assented to 10 July 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Passenger Transport Amendment Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Passenger Transport Act 1990 No 39

The *Passenger Transport Act 1990* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order:

charter service means a public passenger service in which a bus or ferry or another vehicle prescribed by the regulations, and the services of a driver of the vehicle, are pre-booked for hire to take passengers for an agreed fee, but only if, according to the terms of the hire:

- (a) the hirer is entitled to determine the route for the journey and the time of travel, and
- (b) all passengers' journeys have a common origin or a common destination, or both, and
- (c) individual fares are not payable by the passengers (either to the operator of the service or to the driver of the vehicle), and
- (d) service is not provided according to regular routes and timetables.

service levels means:

- (a) the periods of time during which services are to be operated, and
- (b) the frequency and extent of operation of services during any specified period of time.

[2] Section 3, definition of "private hire vehicle"

Insert ", a charter service" after "long-distance service".

[3] Section 3, definition of "public passenger service"

Insert "(other than a light rail vehicle)" after "motor vehicle" in paragraph (a).

[4] Section 3, definition of “taxi-cab”

Insert “, a charter service” after “long-distance service” in paragraph (a).

[5] Section 3, definition of “tourist service”

Omit the definition. Insert instead:

tourist service means a public passenger service provided by a bus or ferry or another vehicle prescribed by the regulations, being:

- (a) a pre-booked service designed for the carriage of tourists to destinations listed on a publicly available tour itinerary, or
- (b) a service designed for the carriage of tourists where all passengers’ journeys have a common origin or a common destination, or both.

[6] Section 4 Objects

Insert at the end of section 4:

, and

- (e) to encourage public passenger services that meet the reasonable expectations of the community for safe, reliable and efficient passenger transport services, and
- (f) to encourage co-ordination of public transport services.

[7] Section 7 Accreditation

Omit “100 penalty units” from section 7 (1).
Insert instead “1,000 penalty units”.

[8] Section 7 (5)

Insert after section 7 (4):

- (5) Standards published under subsection (3) (b) may be re-determined by the Director-General from time to time, and are to be re-published and made available as occasion requires.

[9] Sections 9A and 9B

Insert after section 9:

9A Issue and renewal of accreditation

- (1) An accreditation, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the particulars of accreditation, but is renewable from time to time on payment of the fee prescribed by the regulations.
- (2) Procedures for renewal may be settled by the Director-General, subject to any provision in that behalf made by the regulations.

9B Conditions of accreditation

- (1) An accreditation is subject to:
 - (a) the conditions prescribed by the regulations, and
 - (b) such additional conditions as the Director-General, having regard to the purpose of accreditation, may from time to time impose on the accreditation.
- (2) Conditions in force under subsection (1) (b) may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the accredited person.

- (3) An accredited service operator who contravenes or fails to comply with a condition of the operator's accreditation is guilty of an offence.
Maximum penalty: 500 penalty units.
- (4) A variation of conditions imposed on an accreditation by the Director-General under subsection (1) (b) is, for the purposes of Division 3 of Part 5 (Appeals), a variation of the accreditation.

[10] Section 11 Authorities

Omit "20 penalty units" from section 11(1).
Insert instead "100 penalty units".

[11] Sections 11A and 11B

Insert after section 11:

11A Issue and renewal of authority

- (1) An authority, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the authority, but is renewable from time to time on payment of the fee prescribed by the regulations.
- (2) Procedures for renewal may be settled by the Director-General, subject to any provision in that behalf made by the regulations.

11B Conditions of authority

- (1) An authority is subject to:
 - (a) the conditions prescribed by the regulations, and
 - (b) such additional conditions as the Director-General, having regard to the purpose of an authority, may from time to time impose on the authority.

- (2) Conditions in force under subsection (1) (b) may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the holder of the authority.
- (3) The holder of an authority who contravenes or fails to comply with a condition of the authority is guilty of an offence.

Maximum penalty: 100 penalty units.
- (4) A variation of conditions imposed on an authority by the Director-General under subsection (1) (b) is, for the purposes of Division 3 of Part 5 (Appeals), a variation of the authority.

[12] Section 16 Service contracts

Omit "100 penalty units" from section 16 (3).
Insert instead "1,000 penalty units".

[13] Section 17 Nature of contracts

Insert after section 17 (3):

- (4) It is the duty of the Director-General to ensure that any regular passenger service contract drawn up under this Part is not inconsistent with:
 - (a) standards for the time being in force under section 7, and
 - (b) the terms and conditions of any operator's accreditation and any driver's authority under Part 2 pertaining to the same service to which the contract relates.

In the event of any inconsistency, however, between any such standards, terms and conditions and the provisions of the contract, the provisions of the contract prevail to the extent of the inconsistency.

[14] Section 20 Service levels

Omit section 20 (1).

[15] Section 23

Omit the section. Insert instead:

23 Performance assessment and renewal of commercial contracts

- (1) The performance of service operators under commercial contracts is to be assessed according to a performance assessment regime established by the Director-General that prescribes best-practice objectives and standards of service to be met by operators while their respective contracts remain in force.
- (2) Objectives and standards of service prescribed by the performance assessment regime are to be settled by the Director-General after consultation with the Public Transport Authority, the Public Transport Advisory Council and such persons, representative of commercial regular passenger service operators, as the Minister may direct.
- (3) The objectives and standards may apply differently to different services according to relevant population densities of communities served by them, or other factors, and may relate to (among other matters):
 - (a) service levels, and
 - (b) the costs to government (if any) of the service, and
 - (c) fares and ticketing, and
 - (d) any aspect of service quality.
- (4) The performance assessment regime may be varied from time to time by the Director-General. Subsections (2) and (3) apply to any variation of the objectives and standards prescribed by the regime.

- (5) Service operators are to be notified by the Director-General of
 - (a) the objectives and standards of service applicable to contracts to which they are a party, and
 - (b) the manner in which assessments of operators' performance are to be undertaken,and of any variations made in either case.
- (6) The objectives and standards of service prescribed by the performance assessment regime that are applicable to assessment of the performance of a service operator during the term of a commercial contract are only those specified by the regime as at the commencement (or, as the case may be, the last renewal) of the contract.
- (7) A commercial contract is to be renewed by the Director-General for a further period of 5 years if the contracted operator, on the Director-General's assessment, has met the objectives and standards prescribed by the performance assessment regime that were applicable during the term of the contract, unless the region or route of operation of the contract is varied in accordance with section 24 or the operator declines to take up a renewal.
- (8) A contract is not to be renewed if the contracted operator, on the Director-General's assessment, has not met the prescribed objectives and standards, even if minimum service levels and all other requirements of the contract have been met.

[16] Section 27 Fee for service contract

Insert "and assessment" after "monitoring" in section 27 (3).

[17] Section 29 Requirement for licences

Omit "issued to that person".

[18] Section 29

Omit “100 penalty units”. Insert instead “1,000 penalty units”.

[19] Section 29

Insert at the end of the section:

- (2) The authority of a licence for a taxi-cab or private hire vehicle, if the licence is let or sublet, inures to the benefit of the lessee or sublessee to the exclusion of the lessor or sublessor.
- (3) A reference in this Act or the regulations to the licensee of, or the holder of a licence for, a taxi-cab or private hire vehicle is a reference to the person having the benefit of the authority of the licence concerned.

[20] Section 31 Issue and term of licences

Omit section 31 (1). Insert instead:

- (1) The Director-General may issue or renew a licence for a taxi-cab or private hire vehicle or may decline to do so.

[21] Section 32 Short-term licences

Omit “12 months’ duration” from section 32 (1).
Insert instead “up to 6 years’ duration”.

[22] Sections 34 and 34A

Omit section 34. Insert instead:

34 Conditions of licences

A licence for a taxi-cab or private hire vehicle is subject to:

- (a) any conditions prescribed by the regulations, and
- (b) such additional conditions as the Director-General may impose on it.

34A Fares or other remuneration

The Director-General may from time to time, by notice published in the Gazette, determine fares (including maximum fares) or approve other arrangements for remuneration in connection with taxi-cab or private hire vehicle services.

[23] Section 39 Licence fee for short-term licences

Omit section 39 (2).

[24] Section 40 Stand-by taxi-cabs

Omit “The holder of a licence for” from section 40 (1).
Insert instead “An accredited operator of a public passenger service carried on by means of”.

[25] Section 41

Omit the section. Insert instead:

41 Taxi-cab networks

(1) In this section:

booking service means the service of

- (a) accepting bookings from members of the public, and
- (b) transmitting messages to taxi-cab drivers by telecommunication to appropriate receivers with which the taxi-cabs are fitted,

in order to facilitate the provision of public passenger services by means of taxi-cabs.

taxi-cab network means an agency whose functions include the operation of a booking service.

taxi-cab network authority means an authority referred to in subsection (3).

- (2) The accredited operator of a public passenger service carried on by taxi-cab must ensure that, at all times while the taxi-cab is being used for the purposes of that service:
- (a) arrangements are in force with a taxi-cab network for the provision of a booking service in respect of the taxi-cab, and
 - (b) the taxi-cab is fitted with a receiver, appropriate for receipt of messages from the network, in working order,

unless exempted under this Act from the provisions of this subsection.

- (3) A person must not operate, or participate in the operation of, a taxi-cab network unless an authority issued by the Director-General is in force in respect of the network.

Maximum penalty: 1,000 penalty units.

- (4) The Director-General, on application supported by such evidence as the Director-General may reasonably require to show that the proposed network is capable of complying with the standards prescribed under this section, may issue a taxi-cab network authority to the applicant.
- (5) A taxi-cab network authority is subject to such conditions as the regulations may prescribe and such additional conditions as the Director-General may impose. Conditions imposed by the Director-General may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General by notice served on the holder of the authority.

- (6) Conditions referred to in subsection (5) may provide for (among other things) objectives and standards in relation to:
 - (a) maintenance of vehicles used as taxi-cabs, and
 - (b) safety of drivers of taxi-cabs and of their passengers, and
 - (c) training of taxi-cab drivers, and
 - (d) any other aspect of public passenger services provided by taxi-cabs.
- (7) The regulations may create offences punishable by penalties of up to 1,000 penalty units for a contravention of or failure to comply with particular conditions prescribed or imposed under this section.
- (8) The Director-General may revoke a taxi-cab network authority, or suspend its operation for a period of not more than 12 months, if there has been a serious or persistent contravention of or failure to comply with the conditions prescribed or imposed under this section with respect to the operation of the network concerned (whether or not any legal proceedings have been taken in respect of any such contravention or failure).

[26] Section 42

Omit the section. Insert instead:

42 Inspection of vehicles, premises, equipment and records

- (1) The powers conferred by this section may be exercised by an authorised officer for the purpose of determining whether there has been compliance with or a contravention of this Act or the regulations or the conditions or limitations of any licence, accreditation, authority, requirement or exemption issued, made or given under this Act.

- (2) An authorised officer may, by notice in writing, require a person to furnish records or information.
- (3) An authorised officer may enter premises (other than any premises, or a part of any premises, that are used as a dwelling) that the officer reasonably suspects are being used for the purposes of a public passenger service, a taxi-cab network (as defined in section 41) or for the keeping of records for any such purposes.
- (4) An authorised officer may, at any premises lawfully entered, do anything that in the opinion of the authorised officer is necessary to be done for the purpose mentioned in subsection (1).
- (5) An authorised officer may:
 - (a) inspect any vehicle or vessel that the officer reasonably suspects is being used for the purposes of a public passenger service and inspect or test any taxi-meter, radio receiver or other equipment, or inspect any furnishings or fittings, in or on or about the vehicle or vessel, or
 - (b) by notice in writing, require the owner or person in possession of any such vehicle, vessel or equipment specified in the notice to have the vehicle, vessel or equipment inspected or tested within a time limited by the notice.
- (6) Schedule 1 has effect in relation to the powers of an authorised officer under this section.

[27] Section 44 Transfer of licences for taxi-cabs

Omit “Wales:” from section 44 (1).

Insert instead “Wales a tax on the transfer of the licence, calculated at the rate of 2.5% of its current market value.”.

[28] Section 44 (1)(c) and (d)

Omit the paragraphs.

[29] Section 52 Appeals

Omit section 52 (3). Insert instead:

- (3) A person aggrieved by a decision of the Director-General:
 - (a) to refuse to issue or transfer a licence to the person, or
 - (b) to suspend or cancel the person's licence, or
 - (c) with respect to the conditions imposed on the person's licence, or any variation or proposed variation of them,

may appeal to the Local Court.

[30] Section 60

Omit the section. Insert instead:

60 Proceedings for offences

- (1) Proceedings for an offence against this Act or the regulations may be dealt with in a summary manner before a Local Court constituted by a Magistrate sitting alone or before the Supreme Court in its summary jurisdiction.
- (2) The maximum penalty that may be imposed by a Local Court for an offence under a provision of this Act or the regulations is 100 penalty units or the maximum penalty provided for the offence, whichever is less.

[31] Section 63 Regulations

Insert “relating to public passenger vehicles or services, including advertisements displayed” before “within” in section 63 (2) (bb).

[32] Section 63 (4) and (5)

Omit section 63 (4). Insert instead:

- (4) The regulations may create offences punishable by a penalty not exceeding 50 penalty units.
- (5) Subsection (4) is in addition to, and does not limit the operation of, section 41 (7).

[33] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Provisions relating to powers of authorised officers

(Section 42)

1 Notices requiring records or information to be furnished

- (1) This clause applies to a notice referred to in section 42 (2).
- (2) The notice must specify the manner in which information or records are required to be furnished and a reasonable time by or at which they must be furnished.
- (3) The notice may only require a person to furnish records that are in the person’s possession or that are within the person’s power to obtain lawfully.
- (4) The authorised officer may take copies of any records furnished in response to the notice.

- (5) If any record required by the notice to be furnished is in electronic, mechanical or other form, the notice requires the record to be furnished in written form, unless the notice otherwise provides.

2 Entry of premises

- (1) This clause applies to the entry of premises by an authorised officer under section 42 (3).
- (2) The officer may enter the premises without notice at any reasonable time.
- (3) Entry may be on foot or by means of a motor vehicle or other vehicle, or in any other manner.
- (4) Entry may be effected with the aid of such police officers as the authorised officer considers necessary and, where necessary, with the use of reasonable force.

3 Powers of authorised officers exercisable at premises

Without limiting section 42 (4), an authorised officer may, at any premises lawfully entered, do any or all of the following:

- (a) inspect any maintenance facilities, equipment or apparatus used for the purposes of or in connection with a public passenger service,
- (b) take such photographs, films or audio, video and other recordings as the authorised officer considers necessary,
- (c) seize anything connected with an offence against this Act or the regulations,
- (d) exercise any other power under section 42 or under the provisions of this Schedule.

4 Power to inspect and test

- (1) This clause applies to the inspection of a vehicle or vessel under section 42 (5) (a) and to the inspection and testing of any equipment in accordance with that paragraph.

- (2) The authorised officer may, for the purposes of any such inspection:
 - (a) enter and remain in the vehicle or vessel, and
 - (b) enter and remain in any workshop or other premises where the vehicle or vessel is located, and
 - (c) operate the vehicle or vessel and any operable equipment in, on or about the vehicle or vessel.

5 Stopping of vehicles for inspection or test

- (1) The driver or person in charge of a vehicle that is being driven or used on a public street or in any other place must, for the purpose of enabling an authorised officer to inspect or test the vehicle or any equipment under section 42 (5) (a), comply with any reasonable direction by an authorised officer to stop, stand, park or manoeuvre the vehicle, or to do any other thing, for the purpose of facilitating the inspection or testing of the vehicle.
- (2) A direction to stop the vehicle may be given by the authorised officer by displaying a sign or by any other reasonable method.
- (3) If a vehicle has been stopped in compliance with a direction under subclause (1), any inspection and testing of the vehicle or equipment under section 42 (5) (a) must be carried out:
 - (a) at or as near as practicable to the place where the direction to stop the vehicle is given, and
 - (b) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction.

6 Power to require vehicles or equipment to be inspected or tested

- (1) This clause applies to a notice requiring a vehicle or vessel or any equipment to be inspected or tested under section 42 (5) (b).

- (2) The notice may require the vehicle, vessel or equipment:
 - (a) to be inspected or tested at a specified place (being a place within 80 kilometres of the owner's or person's residence or place of business), or
 - (b) to be tested by or in the presence of an authorised officer.

7 Assistance to be given to authorised officers

- (1) This clause applies for the purpose of enabling an authorised officer to exercise any of the powers of an authorised officer under section 42 in connection with any premises.
- (2) The Director-General may, by notice in writing served on the occupier of the premises, require the person to provide such reasonable assistance and facilities as are specified in the notice within a specified time and in a specified manner.
- (3) A person who neglects or fails to comply with the Director-General's requirements under this clause is taken to have obstructed the authorised officer in the exercise of the officer's powers under section 42.

8 Care to be taken

- (1) In the exercise of a power of entering or searching premises, an authorised officer must do as little damage as possible.
- (2) The Director-General (on behalf of the Crown) must compensate all interested parties for any damage caused by an authorised officer in exercising a power of entering the premises (but not any damage caused by the exercise of any other power), unless the occupier obstructed or hindered the authorised officer in the exercise of the power of entry.

[34] Schedule 3 Savings and transitional provisions

Insert “**Part 1 Preliminary**” before clause 1.

[35] Schedule 3, clause 2 (1)

Omit “this Act.”. Insert instead:

this Act or any of the following Acts:

Passenger Transport Amendment Act 1997

[36] Schedule 3, clause 2 (3)

Omit “this Act”. Insert instead “the Act concerned”.

[37] Schedule 3, Part 2, heading

Insert “**Part 2 Provisions consequent on enactment of this Act**” before clause 3.

[38] Schedule 3, Part 3

Insert after clause 6:

**Part 3 Provisions consequent on enactment of
Passenger Transport Amendment Act 1997**

7 Definitions

In this Part of this Schedule:

the amending Act means the *Passenger Transport Amendment Act 1997*.

the new contract provisions means the provisions of section 23, as re-enacted by the amending Act.

the old contract provisions means the provisions of section 23, as in force immediately before the repeal of that section by the amending Act.

8 Existing accreditations and authorities

An accreditation under Division 1 of Part 2, and any driver's authority under Division 2 of that Part, that was in force immediately before the commencement of this clause, remains in force, subject to this Act and the regulations, until the date prescribed in respect of the accreditation or authority by regulations made in accordance with clause 2.

9 Renewal of commercial passenger service contracts

- (1) A performance assessment regime established under the new contract provisions:
 - (a) applies to a commercial regular passenger service contract entered into after the regime takes effect, and
 - (b) to the extent that it is specified so to apply, applies to a commercial regular passenger service contract that was already in force when the regime took effect (and so applies on and from any specified date in the current term of the contract), except as provided by subclause (3).
- (2) To the extent necessary to give effect to subclause (1) (b), the new contract provisions extend to apply to a contract that was entered into before their commencement.
- (3) Despite their repeal by the amending Act, the old contract provisions are taken to continue to apply (to the exclusion of the new contract provisions) to a commercial regular passenger service contract that was in force at the time their repeal became effective and that had not by then been renewed, but cease to apply on the date of its first renewal.
- (4) The objectives, standards and methods of assessment comprised in a performance assessment regime established under the new contract provisions, to the extent that the regime applies to a commercial regular passenger service contract that is in force at the time the regime takes effect, must be reasonable in view of the fact that the regime has commenced to apply during the

currency of the contract and must, in particular, afford the operator reasonable opportunity to make any adjustments necessary to be made in order to meet the requirements of the regime.

- (5) A provision of a commercial regular passenger service contract entered into before or after the enactment of the amending Act, to the extent that it is inconsistent with the provisions of this clause, or with the new contract provisions, is of no effect.
- (6) No compensation is payable to a service operator or any other person as a consequence of the repeal of the old contract provisions and the enactment of the new contract provisions, or of the operation of any provision of this clause, and proceedings for recovery of any such compensation may not be instituted or (even if instituted before the commencement of this clause) maintained.
- (7) Section 28 has effect subject to this clause.

10 Network authorities

An authority that was in force under section 41 of the Act immediately before its repeal by the amending Act is taken to be an authority granted and in force under section 41 as inserted by the amending Act, and remains in force, subject to this Act and the regulations, until the date prescribed in respect of the authority by regulations made in accordance with clause 2.

[Minister's second reading speech made in—
Legislative Assembly on 28 May 1997
Legislative Council on 27 June 1997]