

1995—No. 400

**PASSENGER TRANSPORT ACT 1990—REGULATION**

(Passenger Transport (Private Hire Vehicle Services) Regulation 1995)

NEW SOUTH WALES



*[Published in Gazette No. 102 of 25 August 1995]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Passenger Transport Act 1990, has been pleased to make the Regulation set forth hereunder.

BRIAN LANGTON, M.P.,  
Minister for Transport.

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**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Passenger Transport (Private Hire Vehicle Services) Regulation 1995.

**Commencement**

2. This Regulation commences on 1 September 1995.

**Definitions**

3. In this Regulation:

“**authorised officer**” includes a person authorised by the Director-General of the Department of Transport for the purposes of this Regulation, and also includes a police officer;

“**authority**” means an authority issued under Division 2 of Part 2 of the Act;

“**drive**” a private hire vehicle includes causing or allowing the private hire vehicle to stand;

“**driver**” of a private hire vehicle means a person who holds an authority that authorises the person to drive a private hire vehicle;

**“driver’s authority card”** means an authority card issued under clause 30;

**“operator”** means:

- (a) in relation to a private hire vehicle service, the person who is accredited under Division 1 of Part 2 of the Act to operate the private hire vehicle service; and
- (b) in relation to a private hire vehicle, the person who is accredited under Division 1 of Part 2 of the Act to operate the private hire vehicle service to which the private hire vehicle belongs;

**“RTA”** means the Roads and Traffic Authority;

**“the Act”** means the Passenger Transport Act 1990.

## **PART 2—OPERATION OF PRIVATE HIRE VEHICLE SERVICES**

### **Division 1—Private hire vehicle operators**

#### **Maximum age of private hire vehicles**

4. (1) The operator of a private hire vehicle must not operate a vehicle that is older than the maximum age specified, in a notice published in the Gazette by the Director-General for the purposes of this clause, with respect to motor vehicles of the same make and model as the vehicle concerned.

Maximum penalty: 10 penalty units.

(2) The Director-General may vary or revoke such a notice by a further notice published in the Gazette.

(3) For the purposes of this clause, the age of a vehicle is to be measured from 6 months after the date on which a compliance plate was fitted to the vehicle in accordance with paragraph 4A of Schedule F to the Motor Traffic Regulations 1935.

#### **Condition of private hire vehicles**

5. The operator of a private hire vehicle must ensure that, while the private hire vehicle is in use, its interior, exterior and fittings (including seat, seat covers and floor coverings) are clean, undamaged and in good repair.

Maximum penalty: 5 penalty units.

**Alteration of a private hire vehicle**

6. The operator of a private hire vehicle that is altered in respect of any particulars contained in the licence for the vehicle must give written notice of the alteration to the Director-General.

Maximum penalty: 5 penalty units.

**Non-compliance notices**

7. The operator of a private hire vehicle must not allow the vehicle to be driven, if the operator knows that:

- (a) the expiry date of a non-compliance notice affixed to the vehicle has passed; or
- (b) a non-compliance notice has been unlawfully removed from the vehicle.

Maximum penalty: 10 penalty units.

**Records of drivers**

8. (1) The operator of a private hire vehicle must not permit a person to drive the private hire vehicle unless satisfied that the person is the holder of:

- (a) an appropriate authority; and
- (b) an appropriate licence under the Traffic Act 1909.

Maximum penalty: 10 penalty units.

(2) The operator of a private hire vehicle must keep a written record of the following particulars for each person who drives the private hire vehicle:

- (a) the person's full name and residential address;
- (b) the dates and times during which the private hire vehicle was driven by the person.

Maximum penalty: 10 penalty units.

(3) This clause does not apply to a private hire vehicle that is driven otherwise than for hire.

**Retention of books and records in relation to the operation of a private hire vehicle**

9. A person who is or has been an operator of a private hire vehicle:

- (a) must retain any record required to be kept by the person under the Act or this Regulation for a period of at least 2 years after the date of the last entry in it; and

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- (b) must, on demand by an authorised officer, produce it for inspection; and
- (c) must, if required by the Director-General in writing to do so, deliver it to the Director-General when required.

Maximum penalty: 10 penalty units.

**Third party property insurance**

**10. (1)** The operator of a private hire vehicle must maintain an insurance policy providing cover of at least \$200,000 against liability for damage to property caused by or arising out of the use of the private hire vehicle.

**(2)** The policy must be maintained with a corporation authorised under the Insurance Act 1973 of the Commonwealth to carry on insurance business.

Maximum penalty: 10 penalty units.

**Division 2—Private hire vehicle drivers****Driver to produce driver's authority card**

**11.** The driver of a private hire vehicle must not fail to produce the appropriate driver's authority card for inspection on demand made by an authorised officer.

Maximum penalty: 5 penalty units.

**Condition of private hire vehicles**

**12.** The driver of a private hire vehicle must not drive the vehicle unless it is clean and tidy.

Maximum penalty: 2 penalty units.

**Non-compliance notices**

**13.** A driver must not drive a private hire vehicle if the driver knows that:

- (a) the expiry date of a non-compliance notice affixed to the vehicle has passed; or
- (b) a non-compliance notice has been unlawfully removed from the vehicle.

Maximum penalty: 10 penalty units.

**Carriage of goods**

14. The driver of a private hire vehicle must not permit any person to place or carry in or on the vehicle any article that is of such size or has such dimensions that it cannot be accommodated in or on the vehicle without inconvenience to any other person.

Maximum penalty: 2 penalty units.

**Behaviour of drivers**

15. The driver of a private hire vehicle must not do any of the following:

- (a) smoke while the vehicle is conveying any passenger;
- (b) solicit for passengers or for a hiring;
- (c) move the vehicle while the doors are open;
- (d) negligently or wilfully start or cause the vehicle to be started so that any passenger or intending passenger is subjected to the risk of injury.

Maximum penalty: 5 penalty units.

**Dress and conduct of drivers**

16. The driver of a private hire vehicle must not fail to do the following:

- (a) be clean and tidy and wear clean and respectable clothes;
- (b) behave in an orderly manner and with civility and propriety towards any passenger, intending passenger or authorised officer;
- (c) comply with every reasonable requirement of any passenger.

Maximum penalty: 5 penalty units.

**PART 3—PRIVATE HIRE VEHICLE HIRINGS****Manner in which hiring to be carried out**

17. (1) The driver of a private hire vehicle:

- (a) must not refuse or fail to carry out punctually any hiring accepted; and
- (b) must drive the vehicle by the shortest practicable route to any place specified by the hirer, unless the hirer requests that the vehicle be driven to that place by some other route.

Maximum penalty: 5 penalty units.

(2) The driver of a private hire vehicle must not stop the vehicle on a public street for the purpose of setting down or picking up passengers otherwise than close to and parallel with the side of the carriageway of the street.

Maximum penalty: 5 penalty units.

(3) The driver of a private hire vehicle may refuse to stop the vehicle at any place at which stopping the vehicle would be unlawful or, in the opinion of the driver, unsafe.

#### **Termination of hiring by hirer**

18. The hirer of a private hire vehicle may discharge the hire at any time.

#### **Additional passengers**

19. The driver of a private hire vehicle must not:

- (a) permit any person to ride in the vehicle without the consent of the hirer; or
- (b) do or allow to be done any act or thing intended to result in any person's entering or riding in the vehicle in contravention of this clause.

Maximum penalty: 5 penalty units.

#### **Fares not to be charged for avoidable delays**

20. The driver of a private hire vehicle must not demand the amount of a charge made for any period during which the vehicle is delayed:

- (a) because of any shortage of fuel or any accident to the tyres, mechanism or any other portion of the vehicle; or
- (b) from any cause that it is in the power of the driver to prevent.

Maximum penalty: 5 penalty units.

### **PART 4—CONDUCT OF PASSENGERS**

#### **Offensive behaviour or language**

21. A person must not, in a private hire vehicle:

- (a) behave in an offensive manner; or
- (b) use any offensive language.

Maximum penalty: 5 penalty units.

**Smoking**

**22.** A person must not smoke tobacco or any other substance in any private hire vehicle in which smoking is prohibited by signs displayed in the vehicle.

Maximum penalty: 2 penalty units.

**Luggage and soiled clothing**

**23. (1)** If, in the opinion of the driver of a private hire vehicle or an authorised officer, a person's clothing or luggage (or any other thing on or carried by the person) may:

- (a) soil or damage the private hire vehicle or the clothing or luggage of other passengers; or
- (b) is of such a size or has such dimensions that it cannot be accommodated in the private hire vehicle without inconvenience to other passengers,

the driver or authorised officer may direct the person not to enter or to leave the private hire vehicle.

**(2)** A person must not fail to comply with such a direction.

Maximum penalty: 2 penalty units.

**Passengers who are intoxicated**

**24. (1)** If, in the opinion of the driver of a private hire vehicle or an authorised officer, a person:

- (a) is under the influence of alcohol or any drug; and
- (b) is causing, or is likely to cause, a nuisance or annoyance to other passengers,

the driver or authorised officer may direct the person not to enter or to leave the private hire vehicle.

**(2)** A person must not fail to comply with such a direction.

Maximum penalty: 2 penalty units.

**Leaving vehicle when directed**

**25. (1)** If, in the opinion of the driver of a private hire vehicle or an authorised officer, a person is committing an offence under this Part, the driver or authorised officer may direct the person to leave the vehicle.

**(2)** A person must not fail to comply with such a direction.

Maximum penalty: 2 penalty units.

**Removal of persons from vehicles**

**26.** A person who fails to comply with a direction under this Part to leave a private hire vehicle may be removed from the vehicle by a police officer.

**Lost property**

**27. (1)** A person who finds any article in or on a private hire vehicle:

- (a) must return it to its owner; or
- (b) must give it to the driver of the private hire vehicle.

Maximum penalty: 2 penalty units.

**(2)** Any article given to the driver of a private hire vehicle is to be dealt with according to directions given by the Director-General and may, if the Director-General thinks fit, be disposed of in accordance with directions given in that behalf.

**PART 5—MISCELLANEOUS****Non-compliance notices**

**28. (1)** An authorised officer, or a person carrying out an inspection of a private hire vehicle under section 42 of the Act, may affix a notice (a “non-compliance notice”) to the vehicle if it appears to the authorised officer or other person that the vehicle does not comply with clause 5.

**(2)** The notice is to specify:

- (a) the action necessary to be taken in order for the vehicle to comply with the relevant requirements; and
- (b) an expiry date after which the vehicle must not be used to provide a private hire vehicle service unless the notice has been removed by an authorised officer.

**(3)** An authorised officer may remove a non-compliance notice from a private hire vehicle if satisfied on inspection of the vehicle that the necessary action specified in the notice has been taken.

**(4)** A person who is not an authorised officer must not remove a non-compliance notice from a private hire vehicle.

Maximum penalty: 10 penalty units.



**Change of address or name of operator or driver**

**29.** An operator of a private hire vehicle service or a driver must, within 7 days after any change of residential address or name, give written notice of the fact and of the new address or name to the Director-General.

Maximum penalty: 5 penalty units.

**Drivers' authority cards**

**30. (1)** The Director-General may issue an authority card to the holder of an authority to drive a private hire vehicle.

**(2)** A driver's authority card must display:

- (a) a photograph of the person; and
- (b) the number of the authority; and
- (c) the expiry date for the card.

**(3)** A driver's authority card expires at midnight on the date specified on the card as the expiry date.

**Misuse of authorities and authority cards**

**31. (1)** This clause applies to authorities to drive private hire vehicles and to drivers' authority cards.

**(2)** A person must not:

- (a) alter or deface any authority or driver's authority card; or
- (b) lend or part with any authority or driver's authority card.

Maximum penalty: 5 penalty units.

**(3)** An authority or driver's authority card that has been altered or defaced is void and may be returned to the Director-General for replacement.

**(4)** On the return of an authority or driver's authority card, or on proof to the satisfaction of the Director-General that an authority or driver's authority card has been destroyed, stolen or lost, the Director-General may cause a duplicate of it to be issued, and any such duplicate then becomes, for the purposes of the Act and this Regulation, the authority or driver's authority card in respect of which the duplicate is issued, and the original authority or driver's authority card becomes void.

**Return of licences, authorities and authority cards**

**32. (1)** The holder of a licence for a private hire vehicle must, immediately on notice of the cancellation or suspension of the licence, or

on the expiration of the licence, deliver it or cause it to be delivered to the Director-General.

Maximum penalty: 10 penalty units.

(2) The holder of an authority to drive a private hire vehicle who has received notice of the variation, cancellation or suspension of the authority must immediately deliver the authority to the Director-General at an address specified in the notice.

Maximum penalty: 10 penalty units.

### **Fees**

33. For the purposes of section 15 of the Act, the prescribed fee is:

- (a) \$100 for an application for accreditation as an operator; and
- (b) \$20 for an application for an authority as a private hire vehicle driver.

### **Service of notices**

34. Any notice required to be served or given under this Regulation is sufficiently served on any person if it is:

- (a) served personally; or
- (b) left at the last known place of residence or business of the person to be served; or
- (c) sent by prepaid letter or post to the person at the person's last known place of residence or business (in which case notice is to be taken to be served on the date on which the letter would in the ordinary course of post be delivered to the place to which it is addressed).

### **Authorised officer may demand name and address**

35. (1) An authorised officer who suspects that the driver of a private hire vehicle, or a passenger in a private hire vehicle, has contravened a provision of this Regulation may direct the person to provide his or her full name and residential address to the authorised officer.

(2) A person to whom such a direction is given must not fail to comply with the direction.

Maximum penalty: 2 penalty units.

(3) A person is not guilty of an offence under this clause unless the person was warned, when the direction was given, that failure to comply with the direction would constitute an offence.

**Penalty notice offences**

**36.** For the purposes of section 59 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is declared to be a penalty notice offence; and
- (b) the prescribed penalty for such an offence is the amount specified in Column 3 of Schedule 1.

**Short descriptions**

**37. (1)** For the purposes of section 145B of the Justices Act 1902, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 1 is:

- (a) the expression specified in Column 2 of that Schedule; or
- (b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.

**(2)** For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 1, the prescribed expression for the offence is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.

**(3)** The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used.

**(4)** Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

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**SCHEDULE 1—PENALTY NOTICE OFFENCES**

(Cl. 36, 37)

**Part 1—Offences under the Passenger Transport Act 1990**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Short description</b>	<b>Penalty</b>
Section 11 (1)	Drive hire car without appropriate authority	\$200

**Part 2—Offences under the Passenger Transport (Private Hire Vehicle Services) Regulation 1995**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision</b>	<b>Short description</b>	<b>Penalty</b>
Clause 4 (1)	operate hire car beyond maximum age	\$200
Clause 5	interior/exterior/fittings of hire car dirty/damaged/not in good repair .....	\$150
Clause 6	fail to notify modification to hire car.....	\$200
Clause 12	drive dirty/untidy hire car .....	\$150
Clause 15 (a)	smoke in hire car while conveying passenger.....	\$150
Clause 15 (b)	solicit for passengers for hire car .....	\$150
Clause 15 (c)	move hire car with doors open .....	\$150
Clause 15 (d)	risk safety of hire car passengers .....	\$200
Clause 16 (a)	hire car driver not clean and tidy .....	\$150
Clause 16 (b)	hire car driver fail to behave orderly/with civility and propriety.....	\$150
Clause 16 (c)	fail to comply with requirement of hire car passenger	\$150
Clause 17 (1) (a)	hire car driver refuse/fail to carry out hiring punctually	\$150
Clause 17 (1) (b)	hire car driver fail to drive by shortest route.....	\$150
Clause 19 (a)	take additional hire car passenger without hirer's consent.....	\$150
Clause 21 (a)	offensive behaviour in hire car .....	\$100
Clause 21 (b)	offensive language in hire car .....	\$100
Clause 22	smoke in hire car contrary to signs .....	\$100

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Column 1	Column 2	Column 3
Provision	Short description	Penalty
Clause 23	person with soiled clothing/bulky luggage fail to leave hire car when directed .....	\$100
Clause 24	intoxicated person fail to leave hire car when directed	\$100
Clause 25	person committing offence fail to leave hire car when directed .....	\$100
Clause 29	hire car operator/driver fail to notify change of address .....	\$100
Clause 31	alter/deface/lend hire car authority/authority card...	\$150
Clause 32 (2)	fail to surrender varied/cancelled/suspended hire car authority card .....	\$100

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**SCHEDULE 1—PENALTY NOTICE OFFENCES**

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**EXPLANATORY NOTE**

The object of this Regulation is to remake, with minor variations, the provisions of the Passenger Transport Regulation 1990 with respect to private hire vehicles. The new Regulation deals with the following matters:

- (a) the operation of private hire vehicle services (Part 2), including:
  - (i) provisions with respect to private hire vehicle operators (Division 1); and
  - (ii) provisions with respect to private hire vehicle drivers (Division 2);
- (b) private hire vehicle hirings (Part 3);
- (c) the conduct of passengers in private hire vehicles (Part 4);
- (d) other minor, consequential and ancillary matters (Parts 1 and 5).

This Regulation is made under the Passenger Transport Act 1990, including section 63 (the general regulation making power) and various other sections referred to in the Regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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