



New South Wales

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

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*.

ANDREW CONSTANCE, MP
Minister for Transport and Infrastructure

Explanatory note

The object of this Regulation is to provide for machinery matters relating to the industry adjustment assistance scheme for holders of existing ordinary taxi licences who held licences as at 30 June 2015 and who continue to hold those licences.

This Regulation:

- (a) provides for a charter for the Taxi and Hire Vehicles Industries Assistance Panel, and
- (b) specifies the persons who are eligible for payment of transitional assistance funds, including the licences for which the assistance is granted, and
- (c) provides for a payment of \$20,000 to each holder of a single licence and a payment of \$40,000 to each holder of 2 or more licences, and
- (d) sets out procedures for making and determining applications for assistance, and
- (e) enables conditions to be imposed on granting assistance, and
- (f) provides a right to seek a review of specified decisions about assistance applications, and
- (g) provides a right of appeal to the Local Court against determinations by the Minister that a person is not entitled to transitional assistance funds, or must repay transitional assistance funds, on the ground that the person has engaged in improper conduct, and
- (h) enables applications to be made to update the taxi licence register kept by Roads and Maritime Services, and
- (i) enables the Taxi and Hire Vehicles Industries Assistance Panel to issue guidelines to Transport for NSW with respect to applications for assistance and the determination of applications.

This Regulation is made under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, including sections 146 (2) (d) and 158 (the general regulation-making power) and clause 3 of Schedule 3. This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a transitional nature.

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

under the

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

1 Name of Regulation

This Regulation is the *Point to Point Transport (Taxis and Hire Vehicles) Regulation 2016*.

2 Commencement

This Regulation commences on 8 July 2016 and is required to be published on the NSW legislation website.

3 Definitions

(1) In this Regulation:

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

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

(2) Notes included in this Regulation do not form part of this Regulation.

4 Adjustment assistance for taxi and passenger hire vehicle industries

Schedule 1 contains provisions relating to adjustment assistance for the taxi and passenger hire vehicle industries.

Schedule 1 Adjustment assistance for taxi and hire vehicle industries

Part 1 Preliminary

1 Definitions

- (1) In this Schedule:
 - eligible ordinary licence*—see clause 4 (1).
 - eligible person* means a person who is eligible to receive transitional assistance funds.
 - taxi licence register* means that part of the Transport Information Management System kept by RMS that relates to taxi licences.
- (2) Words and expressions used in this Schedule have the same meaning as they have in Schedule 3 to the Act.

Part 2 Taxi and Hire Vehicles Industries Assistance Panel

2 Panel charter

- (1) The Secretary of the Department of Transport may prepare a charter for the Panel and may prepare amendments to, or revoke, a charter approved under this clause.
- (2) Without limiting subclause (1), the charter may provide for the following:
 - (a) procedures for meetings, including the calling of meetings and distribution of documents for meetings,
 - (b) how members of the Panel should carry out their functions as members.
- (3) A member of the Panel is to comply with the charter.
- (4) A charter, or the amendment or revocation of a charter, has effect if it is approved in writing by the Minister.

Part 3 Transitional assistance funds

Division 1 Eligible persons and payments

3 Eligible persons

- (1) A person is eligible to receive transitional assistance funds if:
 - (a) the person is the sole or joint holder of an eligible ordinary licence and the person held that licence immediately before 1 July 2015 or, in the case of a joint licence, held that licence jointly with the same persons immediately before that day, and
 - (b) the person has applied for transitional assistance funds in accordance with this Schedule, and
 - (c) the Minister has not determined that the person is not entitled to be paid transitional assistance funds.

Note. A person who engages in improper conduct (as defined in clause 13 of Schedule 3 to the Act) may be subject to a determination by the Minister that the person is not entitled to be paid transitional assistance funds.
- (2) For the purposes of this Schedule, a person is taken to be a holder of an eligible ordinary licence only if the person is listed as the owner of the licence on the taxi licence register, except as provided by clause 9 (3).

4 Eligible ordinary licences

- (1) For the purposes of this Schedule, taxi licences issued under the *Passenger Transport Act 1990* are **eligible ordinary licences** if they are licences of a category listed below:
TX01, TX01A, TX05, TX06, TX06A, TX07, TX08, TX13, TXHAP, TX01New, TX01Wol, TX50, TX50A, TXC1, TX04Wol, TX51, TX52, TXHAPTR.
- (2) In this clause, a reference to a category of licence is a reference to a category of licence shown on the taxi licence register.

5 Transitional assistance funds amounts

- (1) The amount payable to a person who is eligible to receive transitional assistance funds is:
 - (a) if the person holds only 1 eligible ordinary licence—\$20,000, or
 - (b) if the person holds 2 or more eligible ordinary licences—\$40,000.
- (2) A person who holds eligible ordinary licences as a sole licence holder and also jointly with other persons, or jointly with different groups of persons, is entitled to the amounts set out in subclause (1) for each different licence holding arrangement.
Note. For example, if person A holds 2 licences jointly with X and Y, 1 licence as the sole holder and another 3 licences jointly with TSCorp, A will be entitled to benefits calculated for each different licence holding. A will be entitled to \$40,000 for the 2 licences held with X and Y, \$20,000 for the sole licence and \$40,000 for the 3 licences held with TSCorp.

Division 2 Applications for assistance

6 Applications generally

- (1) An eligible person may apply to TfNSW for the payment of transitional assistance funds.
- (2) An application must be made within the application period determined by the Panel.
- (3) An application:
 - (a) is to be in the form approved by the Panel, and
 - (b) is to be accompanied by the documents and other evidence that TfNSW requires the applicant to provide to establish that the applicant is an eligible person, and
 - (c) if the application is made by a person on behalf of other joint holders of a licence, is also to be accompanied by the documents and other evidence that TfNSW requires the applicant to provide to establish that the applicant is authorised to make the application and that any other person on whose behalf the application is made is an eligible person.
- (4) TfNSW may, by notice in writing to the applicant, require an applicant to provide further information or evidence before determining the application.
- (5) An application for transitional assistance funds is taken to be refused if an applicant fails to provide the further information or evidence within 60 days of being given the notice, or within any additional period approved by TfNSW for a particular application.
- (6) A person whose initial application is refused under subclause (5) may make a subsequent application for transitional assistance funds under this clause if the application is accompanied by the further information or evidence that was previously required to be provided.

7 Applications by joint licence holders

- (1) An application for transitional assistance funds that relates to an eligible licence that is jointly held by 2 or more persons must be made by all of the holders or by a holder authorised to make the application on behalf of all of the holders.
- (2) The authorisation is to be in the manner approved by TfNSW for the purposes of this clause.

8 Extension of time for making application

- (1) TfNSW may extend the application period for making a particular application if TfNSW is of the opinion that it is appropriate to do so in the circumstances of the case.
- (2) TfNSW must have regard to any applicable guidelines determined by the Panel when determining whether to extend the application period.

9 Determination of applications

- (1) TfNSW must grant an application for transitional assistance funds if TfNSW is satisfied that:
 - (a) the applicant is an eligible person, and
 - (b) the application was made within the required application period or within any extended application period determined by TfNSW for the particular application.
- (2) TfNSW may grant an application unconditionally or subject to conditions.
- (3) The fact that a person is not listed on the taxi licence register as the owner of an eligible ordinary licence does not prevent the person from being granted transitional assistance funds if the person establishes, to the satisfaction of TfNSW, that the person is the holder of an eligible ordinary licence.
- (4) TfNSW may refuse an application if:
 - (a) the applicant has failed to agree to any conditions imposed by TfNSW or the Panel on payment of the transitional assistance funds, or
 - (b) the applicant has failed to provide any information required by TfNSW for the purposes of determining an application, or
 - (c) there is a dispute as to the identity of any holder of a licence for which the funds are sought, or
 - (d) any transfer tax payable under the *Passenger Transport Act 1990* for a previous transfer of the licence has not been paid, unless TfNSW determines that the applicant or another person took all reasonable steps to bring the transfer to the attention of RMS or any other relevant authority.
- (5) TfNSW must notify an applicant in writing of the determination of the application for transitional assistance funds and, if the application is refused, must set out the reasons for the refusal.

10 Conditions of assistance

Without limiting clause 9 (2), any of the following conditions may be imposed on the grant of an application for transitional assistance funds:

- (a) a requirement that the applicant make specified acknowledgements to TfNSW in respect of the payment of the funds,
- (b) that the distribution of funds among the joint holders of a licence is to be determined by the holders,

- (c) a requirement that the applicant provide TfNSW with a specified indemnity,
- (d) a requirement that the applicant consent to disclosure by TfNSW to the Panel, the Minister, RMS, the Commissioner or the Small Business Commissioner of information relating to the application,
- (e) a requirement that the applicant consent to disclosure by RMS to TfNSW or the Panel of information relating to the application.

Division 3 Reviews and appeals

11 Right to seek review of decisions

- (1) A person who is aggrieved by a decision of the following kind may apply to TfNSW for a review of the decision:
 - (a) a decision that a licence is not an eligible ordinary licence,
 - (b) a decision to refuse an application because transfer tax has not been paid.
- (2) An application for a review is to be made in the form approved by TfNSW and is to be accompanied by the information required by TfNSW.

12 Review of decisions

- (1) An application for a review of a decision is to be dealt with by an individual approved by TfNSW.
- (2) The reviewer must be, as far as practicable, an individual:
 - (a) who was not substantially involved in the process of making the decision under review, and
 - (b) who is employed in the Transport Service of New South Wales.
- (3) In reviewing a decision, the reviewer is to consider any relevant material submitted by the applicant.
- (4) Following the review of the decision, the reviewer may:
 - (a) affirm the decision, or
 - (b) vary the decision, or
 - (c) set aside the decision and make a decision in substitution for the decision that is set aside.
- (5) In exercising a function under this clause, a reviewer is taken for all purposes to have the right to exercise the same functions in law that the person who made the decision had in making the decision being reviewed.
- (6) For the purposes of this Schedule, a reviewable decision that is affirmed, varied or set aside and substituted under this Division is:
 - (a) taken to have been made by the person who made the original decision (as affirmed, varied or substituted by the reviewer), and
 - (b) taken to have been made on the date under which the applicant is given a notice of the decision under this Division.

13 Notice of decision

- (1) A reviewer must notify TfNSW and the applicant of the result of, and the reasons for, his or her decision on a review as soon as is practicable after making the decision.

- (2) For the purposes of this clause, an applicant is notified of the reasons for a decision in a review only if the applicant is given a statement of reasons setting out the following:
 - (a) the findings on material questions of fact, referring to the evidence or other material on which those findings were based,
 - (b) the understanding of the reviewer of the applicable law,
 - (c) the reasoning processes that led the reviewer to the conclusions the reviewer made.

14 Limits on reviews

- (1) A person is not entitled to a review under this Division of any decision previously reviewed under this Division or a decision made under this Division.
- (2) A person is not entitled to a review of a decision under this Schedule other than a decision specified in clause 11 (1).

15 Appeal to Local Court against determination that funds not payable on grounds of improper conduct

For the purposes of section 146 (2) (d) of the Act, the following decisions by the Minister under clause 13 of Schedule 3 to the Act are appellable decisions:

- (a) a determination that a person is not entitled to be paid assistance funds, on the ground that the person has engaged in improper conduct,
- (b) a decision to require a person to repay an amount of assistance funds, on the ground that the person has engaged in improper conduct.

Division 4 Miscellaneous

16 Taxi licence register

- (1) RMS may update the taxi licence register at any time or on application under this clause.
- (2) A person may apply to RMS to update the taxi licence register to reflect the correct information about a licence held by the person (whether solely or jointly with other persons).
- (3) An application is to be in the form and to be accompanied by the information determined by RMS.
- (4) RMS may require the person to provide additional information and evidence to support the application and is not required to consider the application if that information or evidence is not provided.
- (5) A refusal to update the taxi licence register does not affect the right of a person to apply for transitional assistance funds.
- (6) RMS is to make relevant information about taxi licences that is held in the taxi licence register available to persons who may be entitled to make an application for transitional assistance funds.

17 Application guidelines

- (1) For the purposes of determining procedures for applications, the Panel may issue guidelines to TfNSW with respect to applications for transitional assistance funds and the determination of applications.
- (2) Without limiting subclause (1), guidelines may be issued about any of the following:
 - (a) determination of applications subject to disputes,
 - (b) determination of applications where transfer or licence particulars are not shown on the taxi licence register,
 - (c) extension of application periods.