



New South Wales

# Point to Point Transport (Taxis and Hire Vehicles) (Industry Adjustment) Amendment Regulation 2018

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 amend the *Point to Point Transport (Taxis and Hire Vehicles) (Industry Adjustment) Regulation 2016* as follows:

- (a) to provide for a second tranche of applications for transitional assistance funds with respect to certain holders of eligible ordinary taxi licences obtained through a will or property settlement and to eligible taxi training schools,
- (b) to prescribe additional eligibility criteria for additional assistance funds (which are funds to assist holders of private hire vehicle licences),
- (c) to prescribe conditions of payment of additional assistance funds to hire car licensees,
- (d) to clarify that Transport for NSW determines and grants applications for transitional assistance funds only,
- (e) to require any documents provided in connection with an application for assistance funds to be certified in accordance with any applicable guidelines,
- (f) to prescribe additional functions of the Taxi and Hire Vehicle Industries Assistance Panel, including to specify the period within which applications may be made for additional assistance funds and within which additional information in relation to those applications is to be provided.

This Regulation is made under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, including section 158 (the general regulation-making power) and clauses 1 (definition of **transitional assistance funds**), 3, 4 (2), 5 and 8 (g) of Schedule 3.

## **Point to Point Transport (Taxis and Hire Vehicles) (Industry Adjustment) Amendment Regulation 2018**

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) (Industry Adjustment) Amendment Regulation 2018*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

## **Schedule 1 Amendment of Point to Point Transport (Taxis and Hire Vehicles) (Industry Adjustment) Regulation 2016**

### **[1] Schedule 1, Clause 3 Eligible persons**

Insert at the end of clause 3 (1) (c):

- , and
- (d) the person did not cease to hold that licence before 13 January 2017, and
- (e) the person has made an application for transitional assistance funds within the application period, and
- (f) the licence is not a licence for which a payment of transitional assistance funds has already been made, and
- (g) the person has not previously received the maximum amount of transitional assistance funds payable to a person in accordance with clause 5.

### **[2] Schedule 1, Clauses 4A–4C**

Insert after clause 4:

#### **4A Meaning of “transitional assistance funds”**

Moneys allocated by TfNSW for the purposes of payments under the transitional assistance package to taxi training schools and to holders of licences obtained through a will or property settlement are prescribed for the purposes of paragraph (b) of the definition of *transitional assistance funds* in clause 1 of Schedule 3 to the Act.

#### **4B Transitional assistance payments to registered training organisations**

A person is eligible to receive a payment of transitional assistance funds if:

- (a) the person owned a registered training organisation, within the meaning of the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth, on 18 December 2015, and
- (b) immediately before 18 December 2015, the organisation carried on the business of providing training courses approved by TfNSW to taxi drivers or taxi operators, and
- (c) the person can demonstrate that:
  - (i) in the case of an organisation that continues to carry on that business—the organisation was detrimentally affected by changes made to the regulation of the taxi industry on 18 December 2015 by the *Passenger Transport Amendment (Taxis and Hire Cars) Regulation 2015*, or
  - (ii) in the case of an organisation that has ceased to carry on that business—the organisation ceased to carry on that business (whether partly or wholly) as a result of changes made to the regulation of the taxi industry on 18 December 2015 by the *Passenger Transport Amendment (Taxis and Hire Cars) Regulation 2015*.

#### **4C Transitional assistance payments to beneficiaries of a will or property settlement**

A person is eligible to receive transitional assistance funds if:

- (a) the person:
    - (i) was a beneficiary under a will or probate and as a result became the holder of an eligible ordinary taxi licence after 1 July 2015, or
    - (ii) became the holder of an eligible ordinary taxi licence under a property settlement after 1 July 2015, and
  - (b) the person did not cease to hold that licence before 13 January 2017, and
  - (c) the licence was held by the previous holder immediately before 1 July 2015, and
  - (d) the person has applied for transitional assistance funds in accordance with this Schedule, and
  - (e) the Minister has not determined that the person is not entitled to be paid transitional assistance funds, and
- 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.
- (f) the licence is not a licence for which a payment of the maximum amount of transitional assistance funds payable to a person in accordance with clause 5 has previously been made to another person, and
  - (g) the person has not previously received transitional assistance funds in respect of that licence.

**[3] Schedule 1, Clause 5 Eligible ordinary taxi licences**

Insert “under clause 3 or 4C” after “eligible” in clause 5 (1).

**[4] Schedule 1, Clause 5 (1A)**

Insert after clause 5 (1):

- (1A) The amount payable to a person who is eligible under clause 4B to receive transitional assistance funds is to be determined in accordance with any guidelines issued by the Panel.

**[5] Schedule 1, Clause 5A Eligible persons**

Omit “A person” from clause 5A (1).

Insert instead “For the purposes of clause 4 (2) of Schedule 3 to the Act, a person”.

**[6] Schedule 1, Clause 5A (1) (b)**

Insert “and provided any information required by TfNSW for the purposes of clause 6 (4) (including any additional information required to resolve any dispute as to the identity of any holder of a licence for which the funds are sought)” after “Schedule”.

**[7] Schedule 1, Clause 5A (1) (d)–(f)**

Insert at the end of clause 5A (1) (c):

- , and
- (d) the person agrees to any conditions imposed by TfNSW or the Panel on payment of the assistance funds, and
- (e) where there were any unpaid amounts of transfer tax for a previous transfer of the licence or, if the tax was unpaid, the person has taken all reasonable steps to bring the transfer to the attention of RMS or any other relevant authority, and

- (f) TfNSW has advised the Minister that the person meets the requirements of this subclause.

**[8] Schedule 1, Clause 5B Additional assistance funds amounts**

Omit “The” from clause 5B (1).

Insert instead “For the purposes of clause 4 (2) of Schedule 3 to the Act, the”.

**[9] Schedule 1, Clause 6 Applications generally**

Omit “An eligible person” from clause 6 (1). Insert instead “A person”.

**[10] Schedule 1, Clause 6 (3) (b1)**

Insert after clause 6 (3) (b):

- (b1) if the applicant is a corporation, is to be accompanied by evidence that the corporation is a legal entity and that the person making the application is a director of the corporation or other person nominated by the corporation, and

**[11] Schedule 1, Clause 6 (3) (c)**

Insert “or a corporation” and “or corporation” after “licence” and “other person”, respectively.

**[12] Schedule 1, Clause 6 (3A)**

Insert after clause 6 (3):

- (3A) If an application is incomplete, TfNSW may:
- (a) notify the applicant in writing that the application is incomplete and of the information that must be provided, or any other thing that must be done, to make the application comply with this Division, and
- (b) specify a date by which the required information is to be provided or the thing is to be done.

**[13] Schedule 1, Clause 6 (4)**

Omit “before determining the application”.

Insert “in connection with an application for assistance funds”.

**[14] Schedule 1, Clause 6 (4A)**

Insert after clause 6 (4):

- (4A) Any documents required by TfNSW in connection with an application for assistance funds must be certified in accordance with any applicable guidelines issued under clause 17.

**[15] Schedule 1, Clause 6 (5)**

Omit the subclause. Insert instead:

- (5) TfNSW must notify an applicant in writing of the payment of assistance funds and, if the payment is refused, must set out the reasons for the refusal.

**[16] Schedule 1, Clause 6 (6)**

Omit “subclause (5)”. Insert instead “this clause or clause 9 (4A)”.

**[17] Schedule 1, Clause 6 (7)**

Insert after clause 6 (6):

- (7) Any subsequent application for assistance funds must be made within the application period specified by the Panel under clause 6A (1).

**[18] Schedule 1, Clause 6A**

Insert after clause 6:

**6A Additional functions of the Panel**

- (1) The Panel is to determine the application period within which applications for additional assistance funds may be made and is to specify that period by notice published in the Gazette.
- (2) The Panel is to determine the period within which applicants must provide additional information under clause 6 (4) in relation to an application for additional assistance funds and is to specify that period by notice published in the Gazette.
- (3) The Panel may issue guidelines with respect to the amount of transitional assistance funds payable to eligible registered training organisations.

**[19] Schedule 1, Clause 9 Determination of applications for transitional assistance funds**

Insert “transitional” before “assistance funds” wherever occurring in clause 9 (1), (4) and (5).

**[20] Schedule 1, Clause 9 (2)**

Insert “for transitional assistance funds” after “application”.

**[21] Schedule 1, Clause 9 (4A)**

Insert after clause 9 (4):

- (4A) An application for transitional assistance funds is taken to be refused if an applicant fails to provide further information or evidence required under clause 6 (4) within:
  - (a) 60 days of being given notice under that subclause, or
  - (b) any additional period approved by TfNSW for a particular application.

**[22] Schedule 1, Clause 10 Conditions for grant of transitional assistance funds**

Insert “transitional” before “assistance funds”.

**[23] Schedule 1, Clause 10A**

Insert after clause 10:

**10A Conditions of payment to hire car licensees**

- (1) For the purposes of clause 4 (2) of Schedule 3 to the Act and without limiting clause 4 (3) of Schedule 3 to the Act, the following conditions may be imposed by the Minister on a grant of additional 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.
- (2) This clause:
- (a) does not affect payments made, whether conditionally or unconditionally, before the commencement of this clause, and
  - (b) does not limit conditions that may be imposed on payments made under clause 4 (2) of Schedule 3 to the Act.

**[24] Clause 11 Right to seek review of decisions**

Omit “that relates to an application for additional assistance funds” from clause 11 (3).

**[25] Clause 11 (4)**

Insert after clause 11 (3):

- (4) Subclause (3) does not apply to an application for a review of a decision that relates to an application for transitional assistance funds if the application for the review was made before the substitution of that subclause.