



New South Wales

Point to Point Transport (Taxis and Hire Vehicles) Amendment Regulation 2022

under the

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

Her 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*.

SAMUEL FARRAWAY, MLC
Minister for Regional Transport and Roads

Explanatory note

The object of this Regulation is to enable the payment of further transitional assistance funds to owners of ordinary taxi licences that are to be cancelled consequent on the enactment of the *Point to Point Transport (Taxis and Hire Vehicles) Amendment Act 2022*. The Regulation includes provisions about the following—

- (a) the persons who are eligible to receive further transitional assistance funds,
- (b) the amount payable to eligible applicants,
- (c) proof of eligibility,
- (d) applications for further transitional assistance funds,
- (e) the period within which applications may be made,
- (f) the determination of applications for further transitional assistance funds,
- (g) conditions on payment of further transitional assistance funds,
- (h) the provision of additional information or records by applicants,
- (i) reviews of decisions about applications,
- (j) the determination or approval of matters referred to in paragraphs (a)–(i) by Transport for NSW.

This Regulation also makes other minor amendments consequent on the enactment of the *Point to Point Transport (Taxis and Hire Vehicles) Amendment Act 2022*, and repeals spent transitional provisions.

Point to Point Transport (Taxis and Hire Vehicles) Amendment Regulation 2022

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) Amendment Regulation 2022*.

2 Commencement

This Regulation commences as follows—

- (a) for Schedule 1[8]–[11] and [15]—on the commencement of the *Point to Point Transport (Taxis and Hire Vehicles) Amendment Act 2022*, Schedule 1[9],
- (b) otherwise—on 1 February 2023.

Schedule 1 Amendment of Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017

- [1] **Clause 3 Definitions**
Omit clause 3(1), definitions of *peak availability licence* and *wheelchair accessible taxi*.
- [2] **Clauses 10(2), 14(8) and 18(6A)**
Omit the provisions.
- [3] **Clause 40 Information to be provided**
Omit clause 40(2)(c). Insert instead—
- (c) if the vehicle is a wheelchair accessible taxi or a wheelchair accessible hire vehicle—the model and make of the vehicle and how many wheelchairs it is able to transport in a journey,
 - (d) for a facilitator of an affiliated service—the contact details, and the name and address of the place of business, of the affiliated provider.
- [4] **Clause 41 Records of passenger service transactions—booking services**
Insert after clause 41(2)(e)—
- (e1) if the vehicle is a wheelchair accessible taxi or a wheelchair accessible hire vehicle—whether the journey involved the transport of a passenger with a wheelchair,
- [5] **Part 4, Division 1 General matters relating to applications and licences**
Omit the Division.
- [6] **Clause 50 Monthly payment of fees**
Omit the clause.
- [7] **Clause 51 Other conditions**
Omit clause 51(1).
- [8] **Clause 55 Payment of fares**
Omit clause 55(4).
- [9] **Clause 57 Fare may exceed authorised fare if out of area service**
Omit the clause.
- [10] **Clause 73 Use of taxi outside area of operation**
Omit the clause.
- [11] **Clause 77 Driver of taxi to accept hiring**
Omit clause 77(2)(c).
- [12] **Clause 78 Peak availability taxis**
Omit the clause.
- [13] **Clause 98**
Omit clauses 98 and 98A. Insert instead—

98 Records of driver licence details of affiliated providers during transitional period

- (1) The facilitator of an affiliated service must keep a record of the name and driver licence number of each affiliated provider of the facilitator.
- (2) The facilitator of an affiliated service 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.
- (3) A record required to be kept under this clause must be kept in a form approved by the Commissioner.
- (4) This clause is repealed at the end of the transitional period.
- (5) In this clause—
transitional period has the same meaning as in the Act, Schedule 2, Part 3.

[14] Schedule 1 Fees

Omit “, if annual fee is to be determined by bids at auction or sealed tender” wherever occurring in items 6 and 7.

Insert instead “other than a taxi licence for a wheelchair accessible taxi”.

[15] Schedule 2 Penalty notice offences

Omit the matter relating to clause 73.

[16] Schedule 2

Omit the matter relating to clause 78.

[17] Schedule 3 Passenger service levy

Omit clause 16.

[18] Schedules 4 and 5

Omit the Schedules. Insert instead—

Schedule 4 Further adjustment assistance for taxi industry—the Act, Sch 3, cl 2

Part 1 General

1 Definitions

In this Schedule—

eligible licence—see clause 2.

taxi licence register means that part of the records kept by the Commissioner relating to taxi licences.

transitional period has the same meaning as in the Act, Schedule 2, Part 3.

Note— The terms *further transitional assistance funds* and *ordinary taxi licence* used in this Schedule have the same meaning as in the Act, Schedule 3—see the *Interpretation Act 1987*, section 11.

2 Eligible licences

- (1) For this Schedule, *eligible licence* means an ordinary taxi licence of 1 of the following categories as shown on the taxi licence register—

TX01, TX01A, TX05, TX06, TX06A, TX08, TX13, TXHAP, TX01New, TX01Wol, TX50, TX50A, TXC1, TX04Wol, TX51, TXHAPTR.

- (2) However, an ordinary taxi licence is not an *eligible licence* if further transitional assistance funds have already been paid in relation to the licence.

3 Owners of eligible licences

- (1) A person is taken to be the owner of an eligible licence for this Schedule if the person is recorded as the owner of the licence on the taxi licence register.
- (2) However, the fact that a person is not recorded on the taxi licence register as the owner of an eligible licence does not prevent the person from being granted further transitional assistance funds if the person establishes, to the satisfaction of TfNSW, that the person is the owner of an eligible licence.

4 Persons eligible to receive further transitional assistance funds

- (1) A person is eligible to receive further transitional assistance funds if—
- (a) the person—
 - (i) is the sole or joint owner of an eligible licence, and
 - (ii) has owned the licence continuously, or jointly owned the licence continuously with the same persons, since 21 September 2022, or
 - (b) the person becomes, on or after 21 September 2022, the owner of an eligible licence—
 - (i) under a property settlement, or
 - (ii) as a result of being a beneficiary under a will or probate.
- (2) However, a person is not eligible to receive further transitional assistance funds if the person is the subject of a determination or requirement under the Act, Schedule 3, clause 4.

5 Amounts payable

- (1) The amount payable to a person who is eligible to receive further transitional assistance funds is as follows—
- (a) for each metropolitan licence owned by the person—\$150,000,
 - (b) for each regional 1 licence owned by the person—\$195,000,
 - (c) for each regional 2 licence owned by the person—\$115,000,
 - (d) for each regional 3 licence owned by the person—\$85,000,
 - (e) for each regional 4 licence owned by the person—\$40,000.
- (2) The amount payable to a person who is eligible to receive further transitional assistance funds for each eligible licence of category TXHAP owned by the person is 50% of the amount specified in subclause (1).
- (3) The amount payable to a person who is eligible to receive further transitional assistance funds for each eligible licence of category TX05, TX06, TX06A or TX08 owned by the person is 60% of the amount specified in subclause (1).
- (4) Despite subclause (1)(a)—
- (a) a person who solely owns metropolitan licences must not be paid more than the amount payable for 6 of the licences, and
 - (b) a group of persons who jointly own metropolitan licences must not be paid more than the amount payable for 6 of the licences.

- (5) In this clause, a reference to an eligible licence owned by a person includes a reference to an eligible licence jointly owned by the same group of persons.
- (6) In this clause—
- area of operation**, in relation to an eligible licence, means the area of operation specified in the licence.
- metropolitan licence** means an eligible licence subject to an area of operation wholly inside the Metropolitan transport district.
- regional 1 licence** means an eligible licence subject to an area of operation specified in Schedule 5, clause 1.
- regional 2 licence** means an eligible licence subject to an area of operation specified in Schedule 5, clause 2.
- regional 3 licence** means an eligible licence subject to an area of operation specified in Schedule 5, clause 3.
- regional 4 licence** means an eligible licence subject to an area of operation specified in Schedule 5, clause 4.

Part 2 Applications

6 Applications generally

- (1) A person may apply to TfNSW for the payment of further transitional assistance funds.
- (2) An application must—
- (a) be made within the application period determined by TfNSW, and
 - (b) be in the form approved by TfNSW, and
 - (c) be accompanied by the documents and other evidence that TfNSW requires the applicant to provide to establish that the applicant is eligible to receive further transitional assistance funds, and
 - (d) if the applicant is a corporation—be accompanied by evidence that—
 - (i) the corporation is a legal entity, and
 - (ii) the person making the application is a director of the corporation or other person nominated by the corporation, and
 - (e) if the application is made by a person on behalf of other joint owners of a licence or a corporation—also be accompanied by the documents and other evidence that TfNSW requires to establish that—
 - (i) the applicant is authorised to make the application, and
 - (ii) the other persons, or the corporation, on whose behalf the application is made are, or is, eligible to receive further transitional assistance funds.
- (3) If an application is incomplete, TfNSW may—
- (a) notify the applicant in writing—
 - (i) that the application is incomplete, and
 - (ii) of the information that must be provided, or other thing that must be done, to make the application comply with this Part, and
 - (b) specify a date by which the required information is to be provided or the thing is to be done.

- (4) TfNSW may, by written notice to an applicant, require the applicant to provide further information or evidence in connection with an application for further transitional assistance funds.
- (5) A person whose initial application is refused under this clause or clause 9(4) may make a subsequent application for further transitional assistance funds under this clause if the application is accompanied by the further information or evidence that was previously required to be provided.
- (6) A subsequent application for assistance funds must be made within the application period specified by TfNSW.

7 Applications by joint licence owners

- (1) An application for further transitional assistance funds that relates to an eligible licence jointly owned by 2 or more persons must be made by—
 - (a) all the owners, or
 - (b) an owner authorised to make the application on behalf of all the owners.
- (2) The authorisation must be in the form approved by TfNSW.

8 Extension of time for making application

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.

9 Determination of applications

- (1) TfNSW must grant an application for further transitional assistance funds if TfNSW is satisfied that—
 - (a) the applicant is eligible to receive further transitional assistance funds, and
 - (b) the application was made within—
 - (i) the required application period, or
 - (ii) an extended application period determined by TfNSW for the particular application.
- (2) TfNSW may grant an application for further transitional assistance funds—
 - (a) unconditionally, or
 - (b) subject to conditions.
- (3) TfNSW may refuse an application if—
 - (a) the applicant has failed to agree to any conditions imposed by TfNSW on payment of the further transitional assistance funds, or
 - (b) the applicant has not provided information required by TfNSW to determine an application, or
 - (c) there is a dispute as to the identity of an owner of a licence for which the funds are sought, or
 - (d) transfer levy payable under the Act, Schedule 2, clause 7 for a 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 the Commissioner or another relevant authority.

- (4) An application for further 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) an additional period approved by TfNSW for a particular application.
- (5) TfNSW must notify an applicant in writing of—
 - (a) the determination of the application for further transitional assistance funds, and
 - (b) if the application is refused—the reasons for the refusal.

10 Conditions for grant of further transitional assistance funds

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

- (a) a requirement that the applicant make specified acknowledgements to TfNSW in relation to the payment of the funds,
- (b) a requirement that the distribution of funds among the joint owners of a licence must be determined by the owners,
- (c) a requirement that the applicant provide TfNSW a specified indemnity,
- (d) a requirement that the applicant consent to disclosure of information relating to the application, by TfNSW, to—
 - (i) the Minister, or
 - (ii) the Commissioner, or
 - (iii) the Small Business Commissioner.

Part 3 Reviews and appeals

11 Right to seek review of decisions

- (1) A person may apply to TfNSW for a review of the following—
 - (a) a decision that a licence is not an eligible licence,
 - (b) a decision to refuse an application because transfer levy has not been paid.
- (2) An application for a review must be—
 - (a) made in the form approved by TfNSW, and
 - (b) accompanied by the information required by TfNSW.
- (3) An application for a review of a decision must be made within 45 days of the applicant being given notice of the determination of the applicant's application for further transitional assistance funds.

12 Review of decisions

- (1) An application for a review of a decision must be dealt with by an individual approved by TfNSW.
- (2) The reviewer must, as far as practicable, be an individual who—
 - (a) is employed in the Transport Service of New South Wales, and
 - (b) was not substantially involved in making the decision under review.
- (3) The reviewer must consider 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 Part is taken to have been made—
 - (a) by the person who made the original decision, and
 - (b) on the date on which the applicant is given a notice of the decision of the reviewer under this Part.

13 Notice of decision

A reviewer must notify TfNSW and the applicant of the result of, and the reasons for, the reviewer's decision on a review as soon as is practicable after making the decision.

14 Limits on reviews

- (1) A person is not entitled to a review under this Part of—
 - (a) a decision previously reviewed under this Part, or
 - (b) a decision made under this Part.
- (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 Act, section 146(2)(d), the following decisions by the Minister under the Act, Schedule 3, clause 4 are appellable decisions—

- (a) a determination that a person is not entitled to be paid further transitional 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 further transitional assistance funds on the ground that the person has engaged in improper conduct.

Part 4 Miscellaneous

16 Taxi licence register

- (1) The Commissioner may update the taxi licence register—
 - (a) on the Commissioner's own initiative, or
 - (b) on advice from TfNSW, or
 - (c) on application by a person under this clause.
- (2) A person may apply to the Commissioner to update the taxi licence register to reflect correct information about a licence owned by the person, whether solely or jointly with other persons.

- (3) An application must be in the form, and be accompanied by the information, determined by the Commissioner.
- (4) The Commissioner—
 - (a) may require the person to provide additional information and evidence to support the application, and
 - (b) is not required to consider the application if the additional 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 further transitional assistance funds.
- (6) The Commissioner must make relevant information about taxi licences recorded on the taxi licence register available to persons who may be entitled to make an application for further transitional assistance funds.

17 Repeal of Schedules

This Schedule and Schedule 5 are repealed on the repeal of the Act, Schedule 3.

Note— See the Act, Schedule 3, clause 5.

Schedule 5 Areas of operation specified in eligible licences

Schedule 4, clause 5

1 Regional 1

Ballina
Coffs Harbour, Sawtell
Port Macquarie
Tweed Heads / Fingal Head (the greater area of)

2 Regional 2

Albury
Alstonville
Batemans Bay
Blaxland / Glenbrook
Broken Hill
Dubbo
Dubbo (the city of)
Forster / Tuncurry
Gosford Wyong LGA (TX) & the townships of Wyee & Wyee Point
Mullumbimby, Brunswick Heads, Billinudgel, South Golden Beach, New Brighton, Ocean Shores & Bangalow
South West Rocks
Tamworth & district
Tamworth, Kootingal, Moonbi, Attunga & Duri

Tomaree Peninsula

Wagga Wagga

3 Regional 3

Armidale

Bathurst

Corowa

Evans Head

Glen Innes

Grafton

Griffith LGA

Inverell

Katoomba

Katoomba / Leura / Medlow Bath & Wentworth Falls

Kingscliff, Chinderah, Cudgen, Casuarina, Cabarita (Bogangar), Pottsville & Hastings Point

Laurieton, North Haven, Lake Cathie, Bonny Hills, Camden Haven, Lakewood, Kew & Kendall

Leeton

Lismore

Lithgow

Macksville

Mittagong, Bowral, Moss Vale, Colo Vale & Hilltop

Mudgee

Murwillumbah, Cabarita, Hastings Point & Pottsville

Muswellbrook

Muswellbrook, Denman, Aberdeen & Scone

Nambucca Heads

Newcastle Transport District (TX) & the townships of Caves Beach, Catherine Hill Bay, Nords Wharf, Cams Wharf, Fern Bay, Minmi, Toronto, Williamtown, Medowic, Campvale & Ferodale

Nowra

Nowra / Bomaderry

Orange

Parkes

Queanbeyan

Scone

Springwood

Springwood, Valley Heights, Falconbridge, Winmalee

Walgett
Wollongong Transport District & Shellharbour LGA
Woolgoolga

4 Regional 4

Aberdeen
Balranald LGA
Bargo
Bega
Bellingen
Bermagui
Berry / Shoalhaven Heads
Blackheath
Blayney
Bombala
Bourke
Bowraville
Branxton / Greta
Bungendore
Byron Bay / Suffolk Park / Ewingsdale / Bangalow
Casino, Coraki
Cessnock
Cobar
Condobolin
Cooma
Cooma Airport
Coonabarabran
Coonamble
Coonamble (the township of)
Cootamundra
Cowra
Culburra
Dareton, Buronga & Coomealla
Deniliquin
Eden
Fingal Head
Forbes

Gilgandra
Goulburn
Gundagai
Gunnedah
Guyra
Harden / Murrumburrah
Howlong
Huskisson / Sanctuary Point / St Georges Basin
Jindabyne
Junee LGA
Kempsey, Crescent Head
Kiama / Gerringong / Jamberoo
Kurri Kurri, Weston
Kyogle including the suburbs of Bonalbo, Cawongla, Grevillia, Mallangane, Tabulam, Old Bonalbo, Urbenville, Wiangaree & Woodenbong
Lawson
Lawson, Woodford, Hazelbrook, Linden & Bullaburra
Maclean
Maitland, Thornton & Woodberry in the city of Maitland, the townships of Beresfield, Tarro & Hexham
Maitland, Thornton & Woodberry in the city of Maitland, the townships of Beresfield, Tarro & Hexham in the city of Newcastle Council Area & the townships of Raymond Terrace, Medowie, Campvale & Ferodale in the Port Stephens Shire
Merimbula
Merriwa LGA
Milton / Ulladulla
Moama
Moree
Morisset, Wyee, Wyee Point
Moruya
Murray LGA
Murrumbateman
Narooma
Narrabri
Narrandera
Narromine
Oberon

Picton / Tahmoor / Thirlmere
Portland
Quirindi
Singleton
South Bowenfels
Sussex Inlet
Taree
Taree LGA
Taree, Coopernook, Harrington, Manning Point, Old Bar, Wallabi Point,
Diamond Beach, Hallidays Point and Nabic
Temora
Tenterfield
Thredbo
Tumut
Uralla
Urunga
Wangi Wangi
Wauchope
Wellington
Wentworth
West Wyalong
Wingham
Yamba
Yass
Young