

[Act 2000 No 85]



New South Wales

# Passenger Transport Amendment Bill 2000

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Passenger Transport Act 1990* (***the Act***) to provide a revised legislative basis for the taxi-cab and hire car industries, and to make various machinery amendments. Hire cars are referred to in the Act as private hire vehicles.

The Bill:

- (a) regroups, rationalises and clarifies the provisions of the Act relating to taxi-cabs and private hire vehicles, and
  - (b) imposes greater responsibilities on taxi-cab operators, networks and licensees in the delivery of taxi-cab services, and
  - (c) enacts a number of provisions relating to advertising, return of documents and number-plates, the time within which proceedings for offences may be commenced and evidentiary matters.
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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Passenger Transport Act 1990* set out in Schedule 1.

### **Rearrangement of the Act—Schedule 1 [3], [4], [5], [6] and [11]**

The Bill inserts new Parts 4 and 4A into the Act to deal comprehensively with taxi-cabs and private hire vehicles respectively. Part 2 of the Act is amended so that it no longer deals with any of these matters. Division 1 of the existing Part 4 is largely repealed, and Division 2 of the existing Part 4 is renumbered to become Part 4B. Licences and instruments of authorisation under the Act will continue to be issued by the Director-General of the Department of Transport (*the Director-General*).

The opportunity is also being taken to rationalise the language and structure of the relevant provisions.

### **Taxi-cab operators—Schedule 1 [6] (proposed Divisions 2 and 3 of Part 4)**

These provisions set out the basic obligations imposed on taxi-cab operators in the provision of taxi-cab services. They replace certain provisions currently in Division 1 of Part 2, and Division 1 of Part 4, of the Act. The operator's basic obligations are that:

- (a) the operator must be authorised under the Act to carry on the taxi-cab service concerned, and
- (b) the taxi-cab or taxi-cabs used in the service must be licensed under the Act, and
- (c) the operator must be affiliated with a taxi-cab network authorised under the Act, and
- (d) the operator must comply with the terms and conditions of the operator's authorisation, and
- (e) the operator must comply with such of the terms and conditions of the taxi-cab licence or licences as are applicable to the operator.

Taxi-cab operators will be required to be "authorised" to carry on taxi-cab services, rather than "accredited" as at present. Proposed Division 3 contains provisions relating to applications for and the grant of authorisations.

Proposed sections 31D and 31E provide for the conditions of a taxi-cab operator's authorisation. Among these conditions is a statutory condition requiring the taxi-cab operator to comply with service standards determined by the Director-General, including an obligation to comply with directions given by the network with which the operator is affiliated and an obligation to comply with contract determinations applicable to taxi-cab drivers.

#### **Taxi-cab licences—Schedule 1 [6] (proposed Division 4 of Part 4)**

These provisions set out the procedures for the licensing of taxi-cabs. They replace certain provisions currently in Division 1 of Part 4 of the Act. Taxi-cabs will continue to be licensed under the Act. Proposed Division 4 contains provisions relating to applications for and the grant of licences.

Proposed section 32 continues the current arrangements under which, in the case of a taxi-cab licence that is let or sublet to another person, the authority of the licence inures to the benefit of the lessee or sublessee to the exclusion of the lessor or sublessor. However, the section enables regulations or conditions to provide for requirements to remain the responsibility of the licensee, either exclusively or jointly with the lessee or sublessee.

#### **Taxi-cab drivers—Schedule 1 [6] (proposed Division 5 of Part 4)**

These provisions set out the procedures for the authorisation of taxi-cab drivers. They replace certain provisions currently in Division 2 of Part 2 of the Act. Taxi-cab drivers will be required to be "authorised", rather than being required to be the holders of "authorities" as at present. Proposed Division 5 contains provisions relating to applications for and the grant of authorisations.

Proposed sections 33D and 33E provide for the conditions of a taxi-cab driver's authorisation. Among these conditions is a statutory condition requiring the taxi-cab driver to comply with certain kinds of directions given to the driver by a taxi-cab network with which the taxi-cab's operator is affiliated.

#### **Taxi-cab networks—Schedule 1 [6] (proposed Division 6 of Part 4)**

These provisions set out the procedures for the authorisation of taxi-cab networks. They replace the provisions currently in section 41 of the Act. Taxi-cab networks will be required to be "authorised", rather than being subject to "authorities" as at present. Proposed Division 6 contains provisions relating to applications for and the grant of authorisations.

Proposed sections 34D and 34E provide for the conditions of a taxi-cab network's authorisation. Among these conditions are statutory conditions regarding affiliation, and service standards determined by the Director-General. Standards will consist

of requirements with which networks must themselves comply, and standards that networks must ensure taxi-cab operators and drivers comply with. Particular emphasis is placed on the obligation of networks to supervise and monitor taxi-cab operators and drivers, and to provide facilities to assist the Director-General to monitor the network's performance in this area.

**Private hire vehicle operators—Schedule 1 [6] (proposed Divisions 2 and 3 of Part 4A)**

These provisions set out the basic obligations imposed on private hire vehicle operators in the provision of private hire vehicle services. They replace certain provisions currently in Division 1 of Part 2, and Division 1 of Part 4, of the Act. The operator's basic obligations are that:

- (a) the operator must be authorised under the Act to carry on the private hire vehicle service concerned, and
- (b) the private hire vehicle or private hire vehicles used in the service must be licensed under the Act, and
- (c) the operator must comply with the terms and conditions of the operator's authorisation, and
- (d) the operator must comply with such of the terms and conditions of the private hire vehicle licence or licences as are applicable to the operator.

Private hire vehicle operators will be required to be "authorised" to carry on private hire vehicle services, rather than "accredited" as at present. Proposed Division 3 contains provisions relating to applications for and the grant of authorisations.

Proposed sections 38D and 38E provide for the conditions of a private hire vehicle operator's authorisation and for the variation, suspension and cancellation of such authorisations.

**Private hire vehicle licences—Schedule 1 [6] (proposed Division 4 of Part 4A)**

These provisions set out the procedures for the licensing of private hire vehicles. They replace certain provisions currently in Division 1 of Part 4 of the Act. Private hire vehicles will continue to be licensed under the Act. Proposed Division 4 contains provisions relating to applications for and the grant of licences.

Proposed section 39 continues the current arrangements under which, in the case of a private hire vehicle licence that is let or sublet to another person, the authority of the licence inures to the benefit of the lessee or sublessee to the exclusion of the lessor or sublessor. However, the section enables regulations or conditions to

provide for requirements to remain the responsibility of the licensee, either exclusively or jointly with the lessee or sublessee.

**Private hire vehicle drivers—Schedule 1 [6] (proposed Division 5 of Part 4A)**

These provisions set out the procedures for the authorisation of private hire vehicle drivers. They replace certain provisions currently in Division 2 of Part 2 of the Act. Private hire vehicle drivers will be required to be “authorised”, rather than being required to be the holders of “authorities” as at present. Proposed Division 5 contains provisions relating to applications for and the grant of authorisations.

Proposed section 40D provides for the conditions of a private hire vehicle driver’s authorisation.

**Relocation of sections 34A and 42—Schedule 1 [7], [10] and [22]**

Section 34A (which deals with fares) is currently located in Part 4 of the Act. The Bill renumbers the section as section 60A and transfers it to Part 6 (which deals with miscellaneous matters).

Section 42 (which deals with the inspection of vehicles, premises, equipment and records) is currently located in Part 4 of the Act. The Bill renumbers the section as section 55A and transfers it to Part 6 (which deals with miscellaneous matters).

**Advertising—Schedule 1 [15] (proposed section 53A)**

Proposed section 53A makes it an offence to advertise a commercial service involving the operation of a vehicle if the service or vehicle is not accredited, authorised or licensed as required by the Act.

**Requirement to return documents or number-plates—Schedule 1 [15] (proposed section 53B)**

Proposed section 53B (1) makes it an offence not to return an authorisation, licence or other document that is suspended or cancelled. Proposed section 53B (2) makes it an offence not to return the number-plates allocated to a taxi-cab or private hire vehicle if the licence for the taxi-cab or vehicle is cancelled or suspended for more than 28 days, unless directed not to do so.

**Proceedings for offences—Schedule 1 [17] (proposed section 60 (3))**

Proposed section 60 (3) extends the period in which proceedings for offences under the Act may be commenced to 12 months.

**Evidentiary matters—Schedule 1 [19] (proposed section 62 (4))**

Proposed section 62 (4) facilitates proof of certain matters in legal proceedings under the Act, including matters relating to the nature and use of vehicles and to whether a person was the driver or owner of a vehicle.

**Savings and transitional provisions—Schedule 1 [23] and [24]**

Certain licences and other instruments issued under the Act in relation to taxi-cabs and private hire vehicles before the commencement of the amendments will be treated as having been issued under the corresponding provisions of the amended Act. Also, regulations of a savings or transitional nature will be able to be made.

**Minor, consequential or ancillary provisions—Schedule 1 [1], [2], [8], [9], [12], [13], [14], [16], [18], [20] and [21]**

The Bill makes other provisions of a minor, consequential or ancillary nature.