



New South Wales

Passenger Transport Amendment (Taxi Licensing) Bill 2009

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 ***Principal Act***) as follows:

- (a) to provide for non-transferrable and renewable taxi-cab licences having terms of 12 months (***annual licences***), with such licences to be phased in,
- (b) to recognise, and standardise provisions applying to, the category of existing taxi-cab licences (***nexus licences***) associated with licences for wheelchair accessible taxis (***paired licences***),
- (c) to validate certain existing operative taxi-cab licences issued before the commencement of the Principal Act and to validate previous transactions relating to them,
- (d) to make other provision of a savings and transitional nature.

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 the date of assent to the proposed Act.

Schedule 1 Amendment of Passenger Transport Act 1990 No 39

New licence scheme

Schedule 1 [4] provides for new taxi-cab licences to have terms of 12 months, if they are for taxi-cabs operated wholly or partly in the Metropolitan transport district (Sydney) or are licences, or licences of a class, prescribed by order of the Director-General. In any other case, a taxi-cab licence (an *ordinary licence*) is to have a term determined by the Director-General of the Department of Transport and Infrastructure (the *Director-General*) or a term so determined not exceeding 6 years (a *short-term licence*). **Schedule 1 [1] and [3]** make consequential amendments.

Schedule 1 [5] omits sections 32C and 32D and inserts proposed sections 32C–32DA into the Principal Act.

Proposed section 32C enables annual licences to be renewed and continues the existing provision for renewal of ordinary licences.

Proposed section 32D continues the existing provision for transferral of ordinary licences and prohibits the transfer of annual and short-term licences except on the death of the licence holder (as is currently the case for short-term licences).

Proposed section 32DA applies to all taxi-cab licences and makes it clear that they can be let or sublet without the approval of the Director-General.

Schedule 1 [6] provides for licence fees for annual licences to be payable when the licences are first issued and when they are renewed.

Schedule 1 [7] makes it clear that the amount of a licence fee determined by the Director-General is not limited to the amount required to cover the costs of the taxi-cab licensing scheme.

Schedule 1 [10] provides for the fees payable for annual licences to be determined by the Director-General. **Schedule 1 [8] and [9]** make consequential amendments.

Savings and transitional provisions

Schedule 1 [11] enables regulations to be made containing savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 1 [12] inserts proposed Part 12 into Schedule 3 to the Principal Act. The proposed Part contains the following provisions:

Division 1 (proposed clauses 56 and 57) defines words and expressions used in the proposed Part. It also provides that the Part prevails over other provisions of the Schedule and that savings and transitional regulations may be made that are inconsistent with the Part.

Division 2 (proposed clauses 58–60) continues existing ordinary licences and short-term licences after the commencement of the proposed Act and provides for the continuation of existing licences on the introduction of annual licences. Any existing ordinary licence is renewable and both short-term and ordinary licences are transferrable (but only as permitted by the applicable provisions of Part 4 of the Principal Act). The Division also enables applications for licences that are pending when the annual licensing scheme comes into force to be dealt with as applications for short-term or ordinary licences.

Division 3 (proposed clauses 61–63) applies to taxi-cab licences issued before the commencement of the Principal Act that are operative or could be operative immediately before the commencement of the proposed Act. The Division validates the licences and previous transactions relating to them. The licences will be in force until surrendered or cancelled and are transferrable. Existing conditions are saved and provisions that apply generally to taxi-cab licences under the Principal Act are applied to the licences (except provisions relating to licence terms, renewal and initial licence fees). Division 3 is subject to Division 4 which also contains provisions that apply to such licences, if those licences are also nexus licences or paired licences.

Division 4 (proposed clauses 64–68) provides for nexus licences and paired licences to be identified by order of the Director-General published in the Gazette. The Division validates the licences. Licences issued before the commencement of the Principal Act will also be subject to Division 2, other licences will be subject to the applicable provisions of Part 4 of the Principal Act. The conditions to which nexus and paired licences are subject, and the terms of the licences (in the case of ordinary and short-term licences), are set out in the Division. The conditions link the operation of taxi-cabs under nexus licences with the continued operation of wheelchair accessible taxi-cabs under associated paired licences and also limit the transfer of such licences. New licence documents, which do not create new licences, may be issued for nexus licences and paired licences.

Statute law revision

Schedule 1 [2] updates references to a Government department and the head of that department.

First print



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Passenger Transport Amendment (Taxi Licensing) Bill 2009

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New South Wales

Passenger Transport Amendment (Taxi Licensing) Bill 2009

No. , 2009

A Bill for

An Act to amend the *Passenger Transport Act 1990* with respect to taxi-cab licences;
and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Passenger Transport Amendment (Taxi Licensing) Act 2009</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Passenger Transport Act 1990 No 39	1
		2
[1] Section 3 Definitions		3
	Insert in alphabetical order in section 3 (1):	4
	<i>annual licence</i> for a taxi-cab—see section 32B (3).	5
	<i>Metropolitan transport district</i> means the Metropolitan transport district established under section 108 of the <i>Transport Administration Act 1988</i> .	6
		7
		8
	<i>ordinary licence</i> for a taxi-cab—see section 32B (4) (a).	9
	<i>short-term licence</i> for a taxi-cab—see section 32B (4) (b).	10
[2] Section 3 (1)		11
	Omit the definitions of <i>Department</i> and <i>Director-General</i> . Insert instead:	12
	<i>Department</i> means the Department of Transport and Infrastructure.	13
		14
	<i>Director-General</i> means the Director-General of the Department of Transport and Infrastructure.	15
		16
[3] Section 3 (1)		17
	Omit “(including a short-term licence)” from the definition of <i>licence</i> .	18
[4] Section 32B Grant or refusal of application		19
	Insert after section 32B (2):	20
	(3) A licence issued by the Director-General must have a term of 12 months (an <i>annual licence</i>), if:	21
		22
	(a) the licence is for a taxi-cab operated wholly or partly within the Metropolitan transport district, or	23
		24
	(b) the licence is a licence, or a licence of a class, prescribed by order of the Director-General published in the Gazette.	25
		26
	(4) In any other case, the Director-General may issue a licence:	27
	(a) designated as an ordinary licence, having a term, determined by the Director-General and specified in the licence (an <i>ordinary licence</i>), or	28
		29
		30
	(b) designated as a short-term licence, having a term, not exceeding 6 years, determined by the Director-General and specified in the licence (a <i>short-term licence</i>).	31
		32
		33
	(5) A licence remains in force for the period of the term of the licence unless sooner suspended or cancelled.	34
		35

(6)	Without limiting subsection (3), an order under that subsection may apply that subsection to all licences issued after a specified date or may apply that subsection to licences for taxi-cabs operated wholly or partly within a specified area or areas of the State.	1 2 3 4 5
[5]	Sections 32C–32DA	6
	Omit sections 32C and 32D. Insert instead:	7
32C	Renewal of licences	8
(1)	A licence (other than a short-term licence) is renewable from time to time on payment of the administrative fee prescribed by the regulations.	9 10 11
(2)	The Director-General may determine the procedures for renewal, subject to any provisions of the regulations.	12 13
	Note. A licence fee is also payable under section 32H on renewal of an annual licence.	14 15
32D	Transfer of licences	16
(1)	An ordinary licence may be transferred.	17
(2)	Any other licence may be transferred only on the application of the holder’s legal personal representative or of a trustee of the holder’s estate.	18 19 20
(3)	This section is subject to any condition imposed on a licence under this Act.	21 22
32DA	Letting and subletting of licences	23
(1)	A licence may be let or sublet without the approval of the Director-General.	24 25
(2)	This section is subject to any condition imposed on a licence under this Act.	26 27
	Note. See section 30 for licensing and accreditation requirements to operate taxi-cabs.	28 29
[6]	Section 32H Licence fees	30
	Insert “(in the case of an ordinary licence or a short-term licence) or when a licence is first issued or renewed (in the case of an annual licence)” after “issued” in section 32H (1).	31 32 33

[7] Section 32H (3)	1
Insert after section 32H (2):	2
(3) The Director-General may determine a licence fee under this Act that exceeds the amount required to cover the administrative or other costs of the taxi-cab licensing scheme.	3 4 5
[8] Section 32I Licence fee for ordinary licence	6
Omit “a licence” from section 32I (1). Insert instead “an ordinary licence”.	7
[9] Section 32I (3)	8
Omit the subsection.	9
[10] Section 32JA	10
Insert after section 32J:	11
32JA Licence fee for annual licences	12
(1) The amount of the licence fee for an annual licence is an amount determined by the Director-General.	13 14
(2) The Director-General may determine a licence fee for an annual licence or a class of annual licences.	15 16
[11] Schedule 3 Savings and transitional provisions	17
Insert at the end of clause 2 (1):	18
<i>Passenger Transport Amendment (Taxi Licensing) Act 2009</i>	19
[12] Schedule 3, Part 12	20
Insert after Part 11:	21
Part 12 Provisions consequent on enactment of Passenger Transport Amendment (Taxi Licensing) Act 2009	22 23 24
Division 1 Preliminary	25
56 Definitions	26
In this Part:	27
2009 Act means the <i>Passenger Transport Amendment (Taxi Licensing) Act 2009</i> .	28 29
licence means a licence for a taxi-cab.	30

	<i>nexus licence</i> means a licence identified as a nexus licence by order of the Director-General under clause 64.	1 2
	<i>operative pre-1990 licence</i> means a licence to which Division 3 applies.	3 4
	<i>paired licence</i> means a licence identified as a paired licence by order of the Director-General under clause 64.	5 6
57	Application of Part	7
	(1) This Part prevails to the extent of any inconsistency with any other provision of this Schedule.	8 9
	(2) Regulations made under clause 2 of this Schedule may have effect despite any provision of this Part.	10 11
Division 2	Existing licences and new licensing scheme	12
58	Application of Division	13
	This Division is subject to Divisions 3 and 4.	14
59	Continuation of ordinary and short-term licences	15
	(1) This clause applies to an ordinary or short-term licence that was in force immediately before the commencement of the 2009 Act.	16 17
	(2) Any such licence continues in force for the remainder of its term subject to Division 4 of Part 4 of this Act.	18 19
	(3) Any such licence, and any subsequent renewed licence (in the case of an ordinary licence), may be renewed and transferred in accordance with the provisions of Division 4 of Part 4 of this Act that are applicable to the type of licence concerned.	20 21 22 23
60	Effect of application of annual licence scheme	24
	(1) The continuation of an ordinary or short-term licence (whenever issued), or the granting of an application for the renewal of an ordinary licence, is not affected by the application of section 32B (3) of this Act to the issue of a licence of that kind (however applied).	25 26 27 28 29
	(2) Any applications for ordinary or short-term licences pending immediately before the application of section 32B (3) of this Act to the issue of a licence of that kind (however applied) are to continue to be dealt with, and may be issued, as ordinary or short-term licences, as the case requires.	30 31 32 33 34

Division 3	Licences issued before 1990	1
61	Application of Division to certain operative licences	2
(1)	This Division applies to a licence that was first granted or purported to be granted under the <i>Transport Licensing Act 1931</i> if the Director-General is of the opinion that:	3 4 5
(a)	the licence was used for the purpose of operating a taxi-cab immediately before the commencement of the 2009 Act, or	6 7
(b)	the licence was a licence under which a taxi-cab would have been permitted to be operated but was not being operated, or the licence was suspended, immediately before that commencement.	8 9 10 11
(2)	This Division so applies whether or not the licence was validly in force immediately before the commencement of the 2009 Act.	12 13
(3)	However, this Division does not apply to a licence that was surrendered or cancelled or purported to be cancelled before the commencement of the 2009 Act.	14 15 16
(4)	The Director-General may, at the request of the holder of a licence, notify the holder in writing as to whether or not the Director-General is of the opinion that the licence is a licence referred to in subclause (1).	17 18 19 20
(5)	This Division is subject to Division 4.	21
62	Validation of licences and provisions applying to licences	22
(1)	An operative pre-1990 licence is taken to have been (and always to have been) validly issued and in force.	23 24
(2)	Any transfer, lease or sublease of, or other transaction relating to, an operative pre-1990 licence before the commencement of the 2009 Act is taken to have been valid (and always to have been valid), to the extent to which that transaction could validly have been done after the commencement of the 2009 Act.	25 26 27 28 29
63	Provisions applying to operative pre-1990 licences	30
(1)	An operative pre-1990 licence is subject to the following provisions:	31 32
(a)	the licence remains in force until surrendered or cancelled under this Act and may be transferred,	33 34
(b)	the area of operation, if any, of the taxi-cab concerned is (subject to section 32F) the same as it was immediately before the commencement of the 2009 Act,	35 36 37

- (c) any condition imposed on the licence before the commencement of the 2009 Act, and not revoked before that commencement, is taken to have been validly imposed and may be amended or revoked under this Act. 1
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Note. If the licence is a nexus licence or a paired licence, the conditions are revoked under Division 4 and new conditions are imposed under clause 66. 5
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- (2) Division 4 of Part 4 of this Act (other than sections 32B (3)–(6), 32C and 32H–32JA) and Part 4B of this Act apply to an operative pre-1990 licence as if the licence were a licence issued under this Act. 8
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Division 4 Nexus and paired licences 12

Note. The object of this Division is to recognise, and standardise provisions and conditions applying to, the category of licences for taxi-cabs (nexus licences) associated with licences for wheelchair accessible taxis (paired licences). 13
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64 Identification of nexus licences and paired licences 16

- (1) The Director-General may, by order published in the Gazette: 17
- (a) identify a licence, or a class of licences, as nexus licences, and 18
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 - (b) identify a licence, or a class of licences, as paired licences and identify the nexus licence, or class of nexus licences, with which they are associated. 20
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- (2) In determining whether to identify a licence or class of licences as nexus licences, the Director-General may have regard to the following: 23
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- (a) whether the issue or continuing operation of the licence or class of licences is or was regarded as being part of a scheme to subsidise the provision of wheelchair accessible taxi-cab services, 26
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 - (b) whether the licence or class of licences was issued, or is or was regarded as being issued, subject to the issue of a licence for a wheelchair accessible taxi-cab, 30
31
32
 - (c) whether the licence or class of licences is or was when issued, or at any time afterwards, regarded as being subject to a limitation on transfer relating to the transfer of a licence for a wheelchair accessible taxi-cab, 33
34
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 - (d) whether no licence fee or a reduced licence fee was paid for the licence, 37
38
 - (e) any other matter the Director-General thinks fit. 39

(3)	An order may identify a licence as a paired licence only if the Director-General is of the opinion that the licence is, or is regarded as, a licence for a wheelchair accessible taxi-cab.	1 2 3
(4)	An order under this clause may also identify a nexus or paired licence, or class of nexus or paired licences, (other than operative pre-1990 licences) as ordinary or short-term licences.	4 5 6
(5)	An order may identify a licence as an ordinary or short-term licence only if the Director-General is of the opinion that the licence was an ordinary or short-term licence when issued under this Act.	7 8 9 10
(6)	The Director-General may identify an operative pre-1990 licence or a licence issued after the commencement of this Act as a nexus licence or a paired licence.	11 12 13
(7)	This clause does not apply to a licence first issued after the commencement of the 2009 Act.	14 15
65	Validation of, and provisions applicable to, nexus licences and paired licences	16 17
(1)	A nexus licence or a paired licence (other than an operative pre-1990 licence) is taken to have been (and always to have been) validly issued and in force and this Act applies accordingly. Note. Operative pre-1990 licences are validated under clause 62.	18 19 20 21
(2)	To avoid doubt, Division 4 of Part 4 of this Act applies, subject to this Division, to a nexus licence or paired licence that is an ordinary or short-term licence. Note. For provisions applying to nexus licences or paired licences that are operative pre-1990 licences, see Division 3.	22 23 24 25 26
66	Conditions of nexus licences or paired licences	27
(1)	The area of operation, if any, of a taxi-cab for which there is a nexus or paired licence is (subject to section 32F) the same as it was immediately before the commencement of the 2009 Act.	28 29 30
(2)	Any other condition imposed on a nexus licence or a paired licence before the commencement of the 2009 Act, and not revoked before that commencement, is revoked.	31 32 33
(3)	A nexus licence is subject to the following conditions:	34
(a)	the taxi-cab for the licence must not be operated unless the taxi-cab for the associated paired licence is also operated in accordance with the conditions of the paired licence,	35 36 37
(b)	the licence may be transferred only to an authorised taxi-cab network that is an accredited taxi-cab operator,	38 39

(c)	the licence may be transferred only in conjunction with the transfer of the associated paired licence,	1 2
(d)	the holder of the licence must ensure that there is a registered taxi-cab for the licence.	3 4
(4)	A paired licence is subject to the following conditions:	5
(a)	the taxi-cab for the licence must be available for hire for not less than 35 hours a week and must meet any other minimum service level conditions for such a taxi-cab set out in the regulations or imposed under section 32F,	6 7 8 9
(b)	the licence may be transferred only to an authorised taxi-cab network that is an accredited taxi-cab operator,	10 11
(c)	the licence may be transferred only in conjunction with the transfer of the associated nexus licence,	12 13
(d)	the holder of the licence must ensure that there is a registered taxi-cab for the licence and that it complies with the measurement standards approved by the Director-General for wheelchair accessible taxi-cabs.	14 15 16 17
(5)	Section 32F applies to a condition imposed by this clause as if it were a condition imposed under that section.	18 19
(6)	Words and expressions used in this clause have the same meaning as they have in Part 4 of this Act.	20 21
67	Terms of nexus and paired licences (other than operative pre-1990 licences)	22 23
(1)	This clause does not apply to operative pre-1990 licences.	24
(2)	A nexus licence or a paired licence is taken to have a term, commencing on the day on which an order is made identifying it as a nexus licence or a paired licence:	25 26 27
(a)	of a period equivalent to the original term of the licence when first issued, or	28 29
(b)	if the Director-General cannot ascertain that term, of 3 years.	30 31
(3)	The Director-General must notify the holder of a nexus or paired licence in writing of the term of the licence.	32 33
(4)	This clause has effect despite section 32B.	34
	Note. An ordinary licence may be renewed (see clause 65 (2) and section 32C).	35 36

68 Issue of new licence documents	1
(1) The Director-General may issue new licence documents for licences identified as nexus or paired licences.	2 3
(2) One licence document may be, but is not required to be, issued for a nexus licence and any other licence that is an associated paired licence for that licence.	4 5 6
(3) The issue of the new licence documents does not affect the continuity of such licences under this Part or result in the creation of a new licence.	7 8 9
(4) The holder of a nexus or paired licence must, on the issue of the new licence document:	10 11
(a) surrender any former licence document relating to the licence to the Director-General, or	12 13
(b) provide the Director-General with such information or other evidence as the Director-General may require as to why the holder is unable to surrender the document.	14 15 16