

[Act 1997 No 72]



New South Wales

Passenger Transport Amendment Bill 1997

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*:

- (a) to provide for the expiry and renewal of the accreditation of operators of public passenger services and the authorities under which persons may be engaged as drivers for the purposes of such services, and
 - (b) to make further provision with respect to the performance assessment of the operators of commercial regular passenger services and the renewal of their service contracts, and
 - (c) to vary the basis on which the discretion of the Director-General, Department of Transport, to issue taxi-cab licences is exercisable, and
 - (d) to vary the term for which short-term taxi-cab licences may be issued, and
 - (e) to make further provision with respect to requirements to be observed by taxi-cab networks, and
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- (f) to make further provision with respect to the inspection of vehicles, premises and equipment used in connection with the provision of public passenger services and the production and inspection of records relating to such services, and
- (g) to increase the penalties for offences under the Act, and
- (h) to clarify provisions of the Act relating to appeals against decisions of the Director-General in relation to licences and other matters.

The Bill makes other minor and consequential amendments.

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.

Schedule 1 Amendments

Charter services and tourist services (Schedule 1 [1],[2], [4] and [5])

Section 3 of the Act is amended to insert a definition of *charter service* and to replace the definition of *tourist service*. The object of the amendments is to make the distinction clearer between regular passenger services by bus, ferry or other prescribed vehicles (which can only be carried on under a service contract) and irregular services, such as tourist or charter services (which require accreditation of the operator but are not contract-based).

Light rail vehicles (Schedule 1 [3])

The definition of *public passenger service* in section 3 of the Act is amended to exclude light rail vehicles from the meaning of “motor vehicle” in the definition. The effect is to exclude light rail services (which are regulated under other enactments) from the operation of the Act.

Objects of the Act (Schedule 1 [6])

Section 4 of the Act is amended to insert further objects of the Act, namely, encouragement of public passenger services that meet reasonable community expectations of safety, reliability and efficiency and encouragement of co-ordination of public transport services.

Accreditation of service operators (Schedule 1 [7]–[9])

Section 7 of the Act is amended to increase, from 100 to 1,000 penalty units, the penalty for carrying on a public passenger service without the requisite service operator accreditation. (The current value of a penalty unit is \$100.) The section is further amended to make it clear that the government may from time to time revise the standards of financial viability, safety and vehicle maintenance required to be met by service operators.

A new section 9A is inserted, which provides that operator accreditations may be periodically renewed.

A new section 9B is inserted, which provides that operator accreditations are subject to conditions prescribed by the regulations and to any additional conditions imposed by the Director-General, Department of Transport.

Drivers' authorities (Schedule 1 [10] and [11])

Section 11 of the Act is amended to increase, from 20 to 100 penalty units, the penalty for driving a public passenger vehicle without an appropriate driver's authority.

A new section 11A is inserted, which provides that drivers' authorities may be periodically renewed.

A new section 11B is inserted, which provides that drivers' authorities are subject to conditions prescribed by the regulations and to any additional conditions imposed by the Director-General.

Service contracts for regular passenger services (Schedule 1 [12],[13],[15] and [16])

Section 16 of the Act is amended to increase the penalty for carrying on a regular passenger service otherwise than under the authority of a service contract from 100 to 1,000 penalty units.

Section 17 of the Act is amended to make it clear that, while the Director-General has a duty to ensure that the provisions of a regular passenger service contract are not inconsistent with relevant accreditation standards and conditions applying to operators' accreditations and drivers' authorities, the provisions of the contract will prevail in the event that there is any inconsistency.

Section 23 of the Act is repealed and substituted. Under the repealed section, operators of commercial regular passenger services have been entitled to a renewal of their contracts on the same terms (subject to any variation of regions or routes), unless their performance under the existing contract was so unsatisfactory as to have enabled cancellation of the contract. Under the new section, commercial service operators will be assessed according to a performance assessment regime developed by the Director-General in consultation with the Public Transport Authority, the Public Transport Advisory Council and other groups. The performance assessment regime will prescribe best-practice objectives and standards of service for the commercial service operator, and a contract will be renewed if the operator meets those objectives and standards. Section 27 is amended consequentially. (See also **Savings and transitional provisions** below)

Taxi-cab licences (Schedule 1 [17]–[24])

Section 29 of the Act is amended to provide that a public passenger service by taxi-cab or private hire vehicle may be carried on by a person who is a lessee of the licence, rather than the holder to whom it was issued (as long as the person is an accredited service operator) and to increase from 100 to 1,000 penalty units the penalty for operating such a public passenger service without a licence or in contravention of the terms and conditions of a licence. Section 40 is amended consequentially.

Section 31 of the Act is amended to provide that the issue or renewal of taxi-cab and private hire vehicle licences is a matter for the Director-General's unqualified discretion.

Section 32 of the Act is amended to allow a short-term taxi-cab licence to be issued for a term of up to 6 years (instead of for a term of 12 months, as currently provided).

A new section 34A is inserted which allows the Director-General to determine fares, or approve other arrangements for remuneration, in relation to taxi-cabs or private hire vehicles by Gazette notice. Section 34 is repealed and replaced, and section 39 is amended, as a consequence.

Taxi-cab networks (Schedule 1 [25])

Section 41 of the Act, which currently requires a taxi-service radio communication network to obtain an authority to operate, is repealed and replaced by a new section 41. The new section introduces the new requirement that every taxi-cab used to provide a public passenger service must be connected to a network and have arrangements in place to receive messages from the network centre. It provides, in addition, that the network authority is subject to conditions prescribed by the regulations or imposed by the Director-General. The prescribed conditions may include requirements to comply with best-practice objectives and standards of service prescribed by the regulations, maintenance requirements for vehicles, driver safety requirements and other matters.

Inspection of vehicles, premises, equipment and records (Schedule 1 [26] and [33])

Section 42 of the Act, which currently provides for the inspection of public passenger vehicles, is repealed and replaced by a new section that provides powers of inspection of vehicles, premises and equipment used in connection with a public passenger service and power to compel production of and inspect relevant records. The powers are made further explicit in a new Schedule 1 to the Act.

Appeals (Schedule 1 [29])

Section 52 of the Act is amended to make it clear that the only persons who have rights of appeal against a decision of the Director-General in a licensing matter are the licensee or licence applicant (not other licensees), and to make it clear that no appeal lies against the imposition of a fee under the Act.

Proceedings for offences (Schedule 1 [30])

Section 60 of the Act is repealed and replaced by a new section, to take account of the increase in penalties brought about by the amendments proposed by the Bill. Offences for which a penalty exceeding 100 penalty units is sought to be recovered are to be taken before the Supreme Court in its summary jurisdiction. In other cases, proceedings are to be brought in a Local court.

Regulation of advertising (Schedule 1 [31])

Section 63 of the Act is amended to allow regulations to be made for the regulation of advertising of public passenger vehicles or services.

Offences under regulations (Schedule 1 [32])

Section 63 of the Act is amended to increase, from 20 to 50 penalty units, the maximum penalty that may be imposed for an offence under the regulations (except in relation to regulations made for the purposes of section 41 of the Act, in which case the maximum penalty is 1,000 penalty units).

Minor amendments (Schedule 1 [1], [14], [27] and [28])

The expression *service* currently defined in section 20 of the Act, is to be used in other contexts as a consequence of the enactment of the proposed Act, and so the definition is removed to section 3 and section 20 is amended accordingly.

Section 44 of the Act is amended to repeal a spent provision relating to the transfer tax on taxi-cab licences.

Savings and transitional provisions (Schedule 1 [34]–[38])

Schedule 3 to the Act is amended to enact certain savings and transitional provisions as a consequence of the enactment of the proposed Act. The existing provisions relating to regular passenger service contracts (existing section 23) continue to apply to contracts on foot that have not been renewed, until their first renewal. The re-enacted section 23 will apply to all new contracts in future and to existing contracts that have been renewed by the time the re-enacted section takes effect. Existing operator accreditations, drivers' authorities and taxi network authorities, which are currently issued for unlimited periods, will be phased out over a period of time, but new accreditations and authorities are obtainable on meeting the requirements of the amended Act.