

Amalgamation of Former Regulations under the Passenger Transport Act 1990 into a new Passenger Transport Regulation 2007

Changes from Repealed Provisions

The five previous Regulations covering buses, taxis, hire cars, tourist service vehicles and ferries have been repealed and replaced with the new Passenger Transport Regulation 2007 which took effect on Saturday, 1st September, 2007.

This followed a month of public consultation on the exposure draft, including personal briefings to the various public passenger transport industry representative bodies, which resulted in a number of amendments to the draft. There are now in excess of 150 changes from the old regulatory provisions, plus penalty changes. The new regulation itself is available via a link from the Ministry of Transport's web site (www.transport.nsw.gov.au).

To facilitate an understanding of these changes a list of the changes with references to the relevant new clause numbers is available below.

Part 1 Preliminary

- Remove from the definition of “authorised fare”, the obsolete provision for determining taxi fares in accordance with licence conditions, as they have instead for many years been published in the *Government Gazette* in accordance with section 60A of the Act. [3]
- Define “authorised taxi-cab inspection station” for the purposes of the longstanding requirement on operators to have their taxis regularly checked there in accordance with the Manual of Inspection Standards. [3]
- Prescribe the longstanding administrative prohibition, for the safety of passengers, on the use of side-facing seats in the rear of 4WDs used for tourist services. [3]
- Simplify and broaden the definition of “qualified accountant”, for the purposes of who may submit financial statements for applicants seeking operator accreditation, in accordance with suggestions from CPA Australia and the Institute of Chartered Accountants in Australia. [3]
- Allow members of the National Institute of Accountants, who hold the Institute’s Public Practice Certificate, to issue financial capability statements in respect of applicants for hire car accreditation, as already applies in the case of buses and taxis. [3]
- Define “qualified communications engineer” for the purposes of the standards to be met by applicants for authorisation as taxi networks. [3]
- Define “Western Division” for the purposes of the Authorised Taxi Inspection Stations process. [3]
- Adopt a consistent description of an authorised person as a “driver” in all clause headings rather than sometimes referring to such persons as a “driver” and other times as “drivers”. [36, 37, 40, 44, 45, 46, 130, 131]

Part 2 Accreditation of Operators

- Apply the prescribed standards generally applicable to taxi, bus and hire car applicants for accreditation, to applicants for tourist service (by 4WD and motor cycle) accreditation who are currently only asked to comply with administrative requirements rather than prescribed standards. [6-12]
- Explain that it is not acceptable for employees to provide character references for an applicant for operator accreditation who is their employer. [7 (2)]
- Allow the Director-General to approve of a higher education institution providing operator training if it is not a registered training organisation, such as the University of Sydney. [9 (2) (b), 20 (1)]

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- Explain that it is not acceptable for an accountant who is an employee of an applicant for accreditation to vouch for the financial viability of their employer's business. [10 (2)]
- Delete the unnecessary requirements that applicants for taxi and hire car accreditation must submit details of proposed vehicle repairers before being accredited, as this is not a requirement for applicants for bus operator accreditation.
- Apply the prescribed conditions applicable to taxi, bus and hire car operators, to operators of tourist services (by 4WDs and motor cycles) who are currently only asked to comply with administrative requirements rather than prescribed conditions. [14-18]
- Remove the requirements for taxi and hire car operators to maintain roadworthiness assurance plans, and require them instead to maintain their vehicles consistent with manufacturers' requirements, to bring them into line with bus operators. [16 (1)]
- Require taxi, hire car and tourist vehicle operators who are not licensed vehicle repairers, to become licensed if they wish to repair their vehicles themselves, as already applies to bus operators. [16 (2-3)]
- Allow operators who are not licensed vehicle repairers to undertake limited routine maintenance of their vehicles, including lubrication, and replacing lights, seats, wheels, tyres and broken external rear vision mirrors. [16 (4)]
- Provide that any device or equipment fitted to a vehicle, even if not required by this Regulation to be fitted, must be secure, in good condition and fully operational (e.g. a radio receiver connected to the central booking service for wheelchair accessible taxis in Sydney and driver safety screens fitted voluntarily). [17 (2) (f)]
- Require hire car and tourist vehicle operators to notify the Director-General of changes of address of premises, as already applies in the case of buses and taxis. [18]
- Provide that all records required to be kept under the Act or Regulation must be capable of being audited, rather than just specific records. [19 (a)]
- Require all operators to keep a record of the expiry dates of all their drivers' licences and the expiry dates of all their drivers' authorities, so they are aware when their drivers should not be driving public passenger vehicles. [21 (c)-(d)]
- Operators who rent buses, rather than own them, are to ensure that the requisite insurance policies are on foot. [22 (1)]
- Require bus, hire car and tourist vehicle operators to produce evidence of vehicle insurance to authorised officers, as already applies in the case of taxis. [22 (4)]
- Include power for the Director-General, with reasonable excuse, to require operators to provide evidence as to their continuing financial viability (after accreditation). [23]
- Require operators, as a precaution, to report to the Director-General if they become aware of the apparent physical or mental inability of their drivers to drive safely. [24]
- Prohibit operators from arranging for an unaccredited person to illegally manage the operator's public passenger service on their behalf. [25]

Part 3

Authorisation of Drivers

- Clarify that a driver authority for a bus is sufficient for also driving a bus used as a tourist service vehicle. [28 (1) (b)]
- Apply the standards already applicable to become taxi and hire car drivers, to bus and tourist service vehicle driver applicants (4WDs and motor cycles). [29]
- Require applicants for bus driver and tourist vehicle authorisation to be at least 20 years of age, to have held an Australian driving licence for 12 months in the last 2 years, to hold an unconditional New South Wales driving licence, to pass a medical examination, to be lawfully able to work in Australia, and to be fit and proper and of good repute, similar to that applicable to taxi and hire car driver applicants. [29 (2)]
- Require applicants for driver authorisation to satisfy the Director-General that they may legally work in Australia, to formalise current practice. [29 (2) (e) (i)]

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- Prescribe the current requirement that applicants for bus driver authorisation must have successfully completed a bus driver training course approved by the Director-General. [29 (3)]
- Clarify that all drivers' authorities are void when their drivers' licences lapse or expire, as already applies when taxi and hire car drivers' licences are suspended or cancelled. [31 (5)]
- Prohibit the fraudulent obtaining of a driver's authority card to drive a bus, hire car or tourist vehicle, as already applies in the case of taxis. [32 (c)]
- Insert a new offence of making, supplying or using a counterfeit driver authority card. [32 (d)]
- Provide that an applicant for a replacement driver's authority card must meet any criteria determined by the Director-General (e.g. identification and photos), to formalise current practice. [33 (3)]

Part 4

Obligations of Drivers

- Require bus and tourist vehicle drivers to be clean and tidy, to wear clean and tidy clothes, to behave orderly and with civility, and to comply with the requests of passengers, as already applies to taxi and hire car drivers. [35]
- Require bus, hire car and tourist vehicle drivers to wear enclosed shoes, as already applies generally to taxi drivers. [35 (a)]
- Require drivers to comply with a reasonable request of an authorised officer (e.g. to facilitate traffic management at Olympic Park) to formalise current practice. [35 (c)]
- Prohibit tourist vehicle drivers from ever smoking in their vehicles, and from eating or drinking in their vehicles when hired or available for hire, as generally applies in the case of buses, taxis, hire cars and ferries. [36]
- Require bus and tourist vehicle drivers to ensure that their vehicles are clean, as already applies to taxi and hire car drivers. [37]
- Prohibit taxi, hire car and tourist vehicle drivers from interfering with or damaging any equipment or part of a vehicle as already applies in the case of buses and ferries. [38]
- Amend the prohibition on moving a public passenger vehicle while the doors are open to prohibit moving such a vehicle if any door is open. [40 (a)]
- Prohibit drivers from driving negligently or wilfully so as to subject any person to the risk of injury, because the former bus, taxi and hire car Regulations prohibited moving a vehicle in such a way only if a passenger or intending passenger was subjected to the risk of injury, and not authorised officers or the public at large. [40]
- Ensure that drivers of hire cars and tourist vehicles do not allow unconfined animals in their vehicles, except assistance animals. [41]
- Ensure that drivers of tourist vehicles do not allow the carriage of any article that may endanger or inconvenience another person, as already applies to bus, taxi and hire car drivers. [41 (1)]
- Require bus and tourist vehicle drivers to hand in lost property to their operators or a police station, as already similarly applies to taxi and hire car drivers. [42]
- Allow drivers to return lost property to the owners of the lost property item in addition to the other options of giving it to the police, the operator of the service or, in the case of taxis, to the network. [42]
- Provide that bus, hire car and tourist vehicle drivers may be required to undertake refresher courses or training for specific purposes, e.g. to drive buses in Kosciuszko National Park during winter, similar to that which already applies to taxi drivers. [43 (1)]
- Require the drivers of tourist vehicles to notify the Director-General of any alleged offence or traffic infringement notice within 7 days, as already applies to bus, taxi and hire car drivers. [44]
- Require drivers to hand over, rather than merely produce, driver authority cards for inspection when asked, so as not to require authorised officers to unnecessarily enter vehicles merely to check drivers' cards; and apply the same penalty for bus drivers refusing to do so at the Airport as applies to taxi and hire car drivers. [46]
- Prescribe the current administrative requirement that bus and tourist vehicle drivers must provide the Director-General with an annual medical certificate after 60 years of age. [47 (1)]

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Part 5 Conduct of Passengers

- Grant bus drivers and ferry masters the same discretion in determining what type of animals (and what type of confinement is necessary, if any) may be brought on to buses and ferries. [52 (1)]
- Apply the general passenger conduct requirements already applicable to taxi, hire car, bus and ferry passengers, to tourist vehicle (4WD and motor cycle) passengers. [49-59]
- Expand the discretion for bus drivers and ferry masters to refuse to carry passengers who may be a nuisance or annoying, to bring it into line with the situation applicable to taxis and hire cars. [53 (1) (b), 93 (5) (b)]
- Clarify that the general prohibitions on passengers such as being dirty, drunk or on drugs is also sufficient reason for a driver to refuse entry to an intending passenger in such a condition. [53]
- Prescribe wilful damage to taxis, hire cars and tourist vehicles as an offence by passengers, as already applies in respect of buses and ferries. [55]
- Prescribe removal of the property of a driver or operator from a taxi, hire car or tourist vehicle as an offence by passengers, as already applies in respect of buses and ferries. [56]
- Prescribe littering in a taxi, hire car or tourist vehicle as an offence by passengers, as already applies on buses and ferries. [57]
- Prescribe throwing anything in or from a taxi, hire car or tourist vehicle as an offence by passengers, as already applies in respect of buses and ferries. [58]
- Require drivers to take appropriate action if a taxi, hire car, tourist vehicle or ferry passenger endangers a person's safety, as already applies in respect of buses. [59]

Part 6 Tickets

- Provide for the use of "travelcards", to increase options and flexibility for passengers. [70]
- Prescribe the longstanding practice that bus operators must provide ticket selling facilities for the use of drivers of regular route buses. [76 (4)]
- Prescribe the longstanding practice that drivers of regular route buses must issue tickets. [76 (5)]

Part 7 Special Bus Provisions

- Require the name of the operator and the name of the bus depot that must already be displayed on the side of a bus, to be in English. [78 (3) (c)]
- Provide that bus drivers are not required to submit blank bus defect report sheets to their operators if there are no actual defects to report. [81 (2)]
- Exempt long-distance, tourist and charter bus operators from the requirement to maintain passenger manifests if the journey is within 40 km of the bus depot. [84 (5)]
- Prescribe the current administrative exemption that charter bus operators are not required to maintain a manifest if they keep (for sixty days) minimum specified details of the charter. [84 (5)]
- Prescribe the current administrative exemption that contracted bus operators are not required to display destination signs on regular route buses provided principally to carry school students. [87 (3)]
- Redefine and expand the circumstances and procedures involved in requiring the notification of bus accidents and incidents. [88]
- Delete the requirement that a bus driver must drive a regular passenger service bus in accordance with the published timetable and route for that service.
- Prescribe the current administrative requirement that bus drivers must have medical examinations every 3 years until the age of 60 years. [98]

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- Provide for the issue of non-compliance notices to bus service operators whose vehicles or their fittings or equipment, are dirty, damaged or not working, as already applies to taxis and hire cars. [17, 232]

Part 8

Special Taxi Provisions

- Provide that WATs must carry a child restraint that is no more than 10 years' old. [108 (b)]
- Provide that WATs must display approved signs from the 1st January, 2008, indicating that they are wheelchair accessible.
- Clarify that the minimum leg room requirement (180 mm) between the front and rear seats of a taxi is only applicable if the rear seat is occupied. [109 (5)]
- Prescribe the specifications for taxi-meters. [111 and Sch. 2]
- Require all taxis in the transport districts and on the Central Coast to have approved driver security cameras fitted by the 1st March, 2008, and all remaining taxis to have them fitted by the 1st September, 2008. [114]
- Specify that air conditioning must be adequate in WATs so as to serve wheelchair-bound passengers too. [116 (b)]
- Require that drivers' rights must be summarised and displayed in taxis. [118 (2) (e)]
- Emphasise that it may be necessary to duplicate signs in taxis to ensure that all passengers (especially wheelchair-bound passengers) can easily read them, wherever seated. [118 (3) (b) (ii)]
- Prescribe the administrative requirements as to when operators must have their taxis routinely inspected at Authorised Taxi Inspection Stations, according to where their taxis are licensed to operate. [119 (1)]
- Provide that taxis need only have a child restraint anchorage bolt to accommodate a child restraint no more than 10 years' old. [120]
- Prohibit the fitting of red fare-surcharge roof lights on taxis fitted with approved meters that automatically compute day and night fares, so that compliance officers are not obliged to needlessly stop taxis with unlit red roof lights at night. [121 (6)]
- Provide that stand-by taxis, instead of having to display their registration numbers on the mudguards, must display a fleet vehicle number allocated by their network from the 1st January, 2008. [123 (2)]
- Ensure that stand-by taxis comply with RTA registration standards all the time, rather than only at the date of last registration. [124 (4)]
- Include in the list of matters for which a taxi can be issued a non-compliance notice, the lack of taxi driver security camera warning stickers required by Sch. 1 to the Regulation. [125 (g)]
- Include in the list of matters for which a wheelchair accessible taxi can be issued a non-compliance notice, the lack of an approved child restraint. [125 (a) (i)]
- Include in the list of matters for which a taxi can be issued a non-compliance notice, the lack of a periodic inspection label. [125 (l)]
- Prohibit taxi drivers and operators from displaying notices in or on taxis that have not been approved by the Director-General. [126, 135 (b)]
- Include provision for the Director-General to approve of the manner of displaying an advertisement or notice in or on a taxi (in addition to its content and position). [126, 135 (b)]
- Require taxi drivers to sign their worksheets at the end of their shifts before giving them to their operators. [134 (2) (b)]
- Prohibit taxi drivers from selling, or attempting to sell, anything to the hirer of, or a passenger in, a taxi-cab, as already applies on buses and ferries. [135 (c)]
- Prescribe the longstanding approval allowing taxis to display destination signs while standing in certain specified Sydney City taxi zones. [142 (4) (b)]
- Provide that the onus is on the driver of a wheelchair accessible taxi who carries a motorised wheelchair or scooter to only do so if it is safe for the driver and passenger. [148 (3)]

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- Allow hirers to be advised in any lawful manner that they choose (e.g. a mobile phone text message, but not sounding the taxi horn) that their booked taxi has arrived at the pick-up point. [153 (1) (a)]
- Amend the requirement that taxi drivers are responsible for the wearing of seatbelts by passengers up to 17 years of age to now being responsible only for passengers up to 16 years of age, to be consistent with the provisions of the Australian Road Rules. [157 (1) (c)]
- Allow taxi drivers to do booked jobs wholly outside the licensed area of any other taxi. [162]
- Delete the obsolete provision that maxi-taxi drivers can negotiate fares because the maximum such fares have been determined and published for many years by the Director-General under section 60A of the Act.
- Delete the obsolete provision that drivers can charge hirers who soil their taxis a fee specified in their licence conditions, instead of the amount published by the Director-General. [163 (6)]
- Require a licence for a “communications” network instead of for a “radio” network when seeking authorisation as a taxi network to recognise the options open to applicants. [167 (1) (c) (i)]
- Recognise the fact that the “Australian Communications Authority” is now the “Australian Communications and Media Authority”. [167 (1) (c) (i)]
- Prescribe extra requirements by the Director-General for applicants for taxi network authorisation, e.g. by-laws, off-load agreements, disaster recovery plans. [167, 170]
- Require authorised taxi network providers to continue to meet the eligibility standards even after they have been authorised, so as to safeguard the interests of the travelling public. [173]
- Allow the current requirement that taxi networks must advise WAT hirers of the estimated time of arrival of their booked taxis, to be overridden by contrary instructions from the hirer. [177]
- Replace “radio” with “communication” in relation to networks not adopting radio procedures likely to disadvantage the public, in order to recognise the broader technology now available to networks. [181 (a)]
- Prescribe the current requirement that networks must provide the Director-General with accurate and timely performance reports on the provision of taxi services. [182]
- Provide that before a licence can be transferred, and the transfer tax determined, the transferrer and transferee must furnish the Director-General with the particulars of the transfer, so as to ensure that the transfer is properly registered and the correct transfer tax calculated. [185]

Part 9

Special Hire Car Provisions

- Remove the requirement for hire car drivers to have medical examinations every 3 years, which was removed years ago for taxi drivers, and does not apply to tourist vehicle drivers. [98]
- Ban the installation of taxi-meters, or similar devices used to compute fares, in hire cars so as to frustrate the illegal practice in some areas of hire cars being used as taxis. [188]
- Specifically prohibit the practice of some unscrupulous hire car drivers “parking” their hire cars (e.g. at the Airport) whilst attempting to attract a hiring, despite the longstanding prohibition on hire cars standing or plying for hire. [189 (a)]
- Prohibit hire car drivers from carrying out journeys wholly outside their licensed area of operation. [189 (c)]
- Prohibit hire car drivers, without reasonable excuse, from moving more than 3 metres from their vehicle, within the Sydney Airport precinct, as already applies to taxi drivers. [195]
- Provide that before a licence can be transferred, the transferrer and transferee must furnish the particulars of the transfer to the Director-General, so as to ensure the transfer is properly registered. [200]
- Provide for the Director-General to issue ordinary hire car licences free of charge or at a reduced fee in the country where the service may not otherwise be provided, as already applies in respect to taxis. [201]

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Part 10 Special Tourist Vehicle Provisions

- Provide for the issue of non-compliance notices to tourist vehicle operators whose tourist vehicles, or their fittings or equipment, are dirty, damaged or not working, as already applies to taxis and hire cars. [17, 232]
- Emphasise that, in accordance with the Act, knowingly providing tourist services, by a driver or operator, to persons who are not tourists, is an offence. [203]
- Prescribe the longstanding policy prohibiting the use of motor bicycles on unsealed roads when used for tourist services, as this is an important safety issue. [204]
- Prescribe the longstanding administrative safety requirement that only large, touring motor cycles may be used for tours and must be fitted with side guards or crash bars. [205]
- Prescribe the longstanding administrative safety requirement that the operator of a tour using a motor cycle must supply clean safety apparel to fit all passengers. [206]
- Require operators to ensure that motor cycle drivers are sufficiently competent and experienced to carry pillion passengers safely. [207 (1)]
- Prescribe the longstanding policy that a motor cycle driver must ensure, as a matter of public safety, that pillion passengers wear suitable shoes and clothing, and are properly briefed. [207 (2)]
- Prescribe the administrative safety requirement that the driver of a motor cycle must ensure that its headlight is switched on at all times during a tour. [208]
- Prescribe the longstanding policy that an operator or driver must not use a 4WD for a tour that does not include part of the tour off sealed roads. [209]
- Prescribe the administrative requirement that operators using 4WDs must carry basic emergency and safety equipment, but limit this to tours exceeding 80 km off sealed roads. [210]

Part 11 Special Ferry Provisions

- Enable ferry masters to give permission to persons to take animals on ferries. [52 (1) (b)]
- Omit all offences in respect of wharves that are not directly connected with the use of ferries.
- Insert a new provision requiring the reporting of defined notifiable accidents and incidents involving ferries to NSW Maritime and OTSI. [213]

Part 13 Arbitration

- Insert special provisions, developed in consultation with the Bus and Coach Association, facilitating arbitration in respect of a bus operator's assets in connection with a new service provider procuring the assets of an operator leaving the bus industry. [218-231]

Part 14 Miscellaneous

- Replace non-compliance "notice" with non-compliance "label" to recognise the practice of removing defect labels from vehicles instead of defect notices. [232]
- Replace "certificate of inspection" with "inspection label" to more accurately describe the practice involved following the routine inspection of a vehicle. [232]
- Provide that only authorised officers can inspect vehicles and prescribe the current practice of affixing "labels" to vehicles failing to meet specified standards. [232 (1)]
- Enable an authorised officer to authorise another person to remove a non-compliance label from a vehicle so that country operators are not disadvantaged due to their remote location. [232 (5)]
- Prohibit bus, ferry and tourist vehicle operators and drivers from arranging for their employees, agents or contractors to tout or solicit for passengers or hirings, as already similarly applies in respect of taxis and hire cars. [233 (2)]

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- Prescribe the same penalties for touting in relation to buses and tourist vehicles, as already apply to taxis and hire cars, if such offences are committed at the Airport. [233]
- Prohibit false advertising by a person that they are an authorised driver or accredited operator of a taxi or hire car, as already applies to bus and tourist vehicle drivers and operators. [234 (1) (a)-(b)]
- Prohibit false advertising by a person that they are the licensee of a hire car, as already applies in respect of taxis. [234 (1) (d)]
- Prohibit persons from advertising or otherwise representing that they are an authorised mechanic or run an Authorised Taxi Inspection Station unless they are authorised by the Director-General or an authorised mechanic works there. [234]
- Prescribe the Police, RTA and ITSRR to be “relevant agencies” to formalise the arrangements whereby the Ministry exchanges information with them concerning possible breaches of the legislation. [236]
- Simplify and condense the Director-General’s exemption powers. [237]
- Insert a new provision prescribing the Police Force, STA, RTA and ATIS inspectors as classes of authorised officers, thereby allowing the Director-General to authorise members of such classes to exercise specified functions. [239]
- Ensure that all driver and operator training is generally only conducted by registered training organisations. [9 (2) (b), 20 (1), 29 (3), 29 (4) (a), 43 (1), 108 (e), 133 (1)]

Schedule 1

Cameras

- Confirm that cameras fitted to buses and taxis may also be used for the purposes of section 18 (a-d) of the Workplace Surveillance Act 2005. [1 (a)]
- Clarify that cameras fitted to buses and taxis may be used in connection with the prosecution of an offence under this legislation and the Crimes Act 1900. [1 (b)]
- Provide that the Director-General may specify security safeguards for the use of bus and taxi cameras by notice in the *Government Gazette* instead of by notice to each operator individually. [4]
- Clarify that the provisions of this Schedule do not operate so as to affect the provisions of the Workplace Surveillance Act 2005. [6]

Schedule 2

Taxi-meters

- Change all references to “signs” to “marks” so as to spare ATIS inspectors and meter sealers the time and expense of seeking approval from local councils to erect street signs merely to indicate the start and finish of taxi-meter test measuring courses.

Schedule 3

Penalties

Standardise varying penalties for the same offence in respect of different passenger services, raising lower ones to equate to the highest current one, and increase a number of other penalties, as appropriate.