

Taxi Industry

A guide for bailees and bailors



Important information for bailees and bailors in the taxi industry within the Metropolitan Transport District prepared by the NSW Industrial Relations (NSW IR)

This fact sheet is designed to provide a brief overview of some of the provisions of the *Taxi Industry (Contract Drivers) Contract Determination, 1984* (the Determination).

You can download a copy of the Determination from the NSW IR website at www.industrialrelations.nsw.gov.au

Definitions

Bailor – the owner of the taxi.

Bailee – a driver who hires the taxi from the owner for a shift.

Who does the Determination apply to?

The Determination applies to a contract of bailment of a taxi cab in the Metropolitan Transport District.

Can the provisions be changed by private agreement?

No. For more information or assistance, contact the OIR.

Permanent or casual?

A *permanent bailee* is a driver who regularly takes a taxi cab on bailment from the same bailor for:

- five shifts per week; or
- at least 220 night shifts per year.

A *casual bailee* is not a permanent driver and is not entitled to any sick, annual or other leave.

Shift means the usage of a taxi cab by a bailee for a period as agreed between the bailor and bailee of at least 9 hours.

Day shift means a shift of at least nine hours but not more than twelve hours and at least 75 per cent of the hours are between 3 am and 3 pm.

Night shift means a shift of at least nine hours but not more than twelve hours and at least 75 per cent of the hours are between 3 pm and 3 am.

What are the payment methods?

There are two methods of payment, as set out in Schedule I of the Determination. They are:

Method I – Commission

Industry experience will determine the commission percentage.

A first year permanent driver is entitled to 45 per cent of all chargeable fares taken, including GST.

A casual or second and subsequent year permanent driver is entitled to 50 per cent of all chargeable fares taken, including GST.

A driver can retain tips.

Method II – Set Pay-in

A bailee pays the bailor a fixed amount at the end of each shift. Maximum pay-in rates can be downloaded from the NSW IR website.

Who chooses?

The driver. A bailor shall give to any bailee an election form as set out in Schedule 1, Election form – Method of Payment for Taxi Drivers, of Part A of the Determination.

The bailee completes and signs the election form and returns it to the bailor, before commencing the first shift and again within 90

days from the date of the first bailment. The bailor must give the bailee a receipted copy.

Are records required?

Yes. To comply with industrial relations laws the bailor must keep records.

What records must be kept?

The bailor must generate and maintain copies of the following records for six years:

- (1) GST compliant tax invoices with specified particulars as outlined below
- (2) records relating to the calculation and payment of annual leave, sick leave, long service leave and payment for down time entitlements of bailees
- (3) records relating to any monies deducted by the bailor or bonds deposited with the bailor by the bailee
- (4) all Schedule I elections forms
- (5) all Schedule II Driver Log Books forms (as completed by the bailee)
- (6) receipts for each payment made by the bailee.

Invoices

The bailor must provide the bailee with a GST compliant tax invoice no later than 14 days after the completion of each shift. Each tax invoice can include more than one shift.

The tax invoice must include the following information:

- (a) name of the legal entity of the bailor
- (b) the Australian Business Number (ABN) of the bailor
- (c) name of the bailee, and
- (d) for each shift, the date of the shift and the pay-in rate; and the total paid to the bailor by the bailee.

For bailees operating under Method I a completed log book may constitute a tax invoice when signed by the bailor.

Are there provisions for leave in the Determination?

Yes. The Determination provides for annual leave, sick leave and long service leave.

Annual leave

A permanent bailee is entitled to annual leave on completion of at least 220 night shifts or 230 shifts within a twelve month period or on termination of contract. Annual leave is calculated differently depending on the choice of method of payment.

Period of bailment	Method I	Method II
3-12 Months On termination of contract	4/48 of the bailee's total entitlement from the chargeable fares.	The rate set at Item 3 Table 2 of the Determination.
12 Months	5 weeks equal to 5/47 of the bailee's total entitlement from chargeable fares during those twelve months.	5 weeks paid at the rate set at Item 2 of Table 2 of the Determination.

These entitlements cannot be offset against lower pay-in rates.

Sick leave

In the *first year of bailment* a permanent bailee is entitled to five days sick leave. Pro rata sick leave is not available until 55 shifts have been completed. In the *second and subsequent years of bailment* a bailee is entitled to eight days sick leave. Untaken sick leave accumulates.

Sick leave is paid differently depending on the method of payment. For Method I the average earnings per shift over the preceding three months are used to work out the rate of sick pay. For Method II, the rate set at Item 4 of Table 2 of the Determination.

Long service leave

Permanent bailees that have served continuously with one bailor for at least five years, commencing on or after 1 February 1972 are entitled to long service leave. Long service leave is calculated in accordance with the *Long Service Leave Act 1955*.

How is a bailment terminated?

For a permanent bailee, a bailor must give one week's notice or payment in lieu of notice is required. No notice is required for a casual bailee.

Need more information?

To comply with industrial relations laws the bailor must display a copy of the Determination in a conspicuous place. For further information you can:

- call the NSW IR on 131 628 or
- visit www.industrialrelations.nsw.gov.au