A Guide for Taxi Owner & Operators

This guide helps taxi owner/operators, known as bailors, in the taxi industry within the Greater Metropolitan Transport District learn about important obligations under the Taxi Industry (Contract Drivers) Contract Determination 1984.

Who does the Determination apply to?

It applies to a contract of bailment of a taxi cab in the Greater Metropolitan Transport District as defined (as defined in section 108 of the Transport Administration Act 1988 (NSW)).

A copy of the Determination must be made available for drivers. Taxi owner/operators are required to display a copy of the Determination in a clearly visible place which is available to the driver.

The provisions of the Determination cannot be changed by private agreement.

What happens if there is failure to comply with the Determination?

Penalties may apply. Failure to comply with the Determination is a breach of the Industrial Relations Act 1996 and can result in a civil penalty of up to $10,000 being imposed on a taxi owner/operator.

What are the types of engagement?

Permanent: a driver who regularly takes a taxi cab on bailment from the same taxi owner/operator for:

- 5 shifts per week; or
- At least 220 night shifts per year.

Casual: a driver who is not permanent and is not entitled to any leave.

A shift means the usage of a taxi cab by a driver for a period of at least 9 hours, as agreed between you and the driver.

A day shift means a shift of at least 9 hours but no more than 12 hours, where at least 75% of those hours are between 3am and 3pm.

A night shift means a shift of at least 9 hours but not more than 12 hours, where at least 75% of those hours are between 3pm and 3am.

Taxi Licence Code

The Point to Point legislation changed the licensing requirements to drive a taxi/hire car.

Driver qualifications to drive a taxi
Taxi and hire car drivers are required to hold a Passenger Transport Licence Code on an unrestricted Australian licence.

Taxi provider Licence Code responsibilities
The Licence Code provides for safety standards that are the responsibility of the taxi owner/operator to ensure that drivers:

- Pass criminal checks;
- Are medically fit to drive;
- Have an unrestricted driving licence for at least 12 months in the last 2 years; and
- Pass English testing.

What are the payment methods?

There are 2 methods of payment, as set out in Schedule 1 of the Determination. They are:

Commission – Method I
Industry experience will determine the commission percentage. First year permanent drivers are entitled to 45% of all chargeable fares taken, including GST. Casual or second and subsequent year permanent drivers are entitled to 50% of all chargeable fares taken, including GST. A driver can retain all tips.

Set Pay-In – Method II
The driver pays you a fixed amount at the end of each shift. Maximum pay-in rates can be downloaded from the NSW Industrial Relations website.
You must give an election form to any driver.

The driver is to return a completed and signed election form to you before the commencement of the first shift, and again within 90 days. You must give the driver a receipted copy.

**What records must be kept?**

You must generate and maintain copies of the following records for 6 years:

- GST compliant tax invoices with specified particulars as outlined below;
- Records relating to the calculation and payment of annual leave, sick leave, long service leave and payment for down time entitlements of drivers;
- Records relating to any monies deducted by you or bonds deposited with the owner/operator by the driver;
- All Schedule I election forms;
- All Schedule II Driver Log Book forms (as completed by the driver);
- Receipts for each payment made by the driver.

**Tax invoices**

You must provide the driver 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:

- Name of the legal entity of the taxi owner/operator;
- The Australian Business Number (ABN) of the taxi owner/operator;
- Name of the driver; and
- For each shift, the date of the shift and the pay-in rate; and the total paid to the taxi owner/operator by the driver.

**How is a bailment terminated?**

For a permanent driver, you must give the driver one week’s notice or payment in lieu of notice. No notice is required for a casual driver.

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**Leave provisions in the Determination**

It is a breach of the Determination to offset leave entitlements for a lower pay-in rate.

**Annual leave**

A permanent driver is entitled to annual leave on completion of at least 220 night shifts or 230 day shifts within a 12 month period or on termination of their engagement. Annual leave is to be calculated differently depending on the choice of method of payment.

**Period of bailment - 3-12 months on termination of contract**

Commission – Method I - 4/48 of the driver’s total entitlement from the chargeable fares.

Set Pay-in – Method II - The rate set out at Item 3 Table 2 of the Determination.

**Period of bailment - 12 months**

Commission – Method I - 5 weeks equal to 5/47 of the driver’s total entitlement from chargeable fares during those 12 months.

Set Pay-in – Method II -5 weeks paid at the rate set out at Item 2 of Table 2 of the Determination.

**Sick Leave**

In the first year of bailment a permanent driver is entitled to 5 days of sick leave. Pro rata sick leave is not available until 55 shifts have been completed. In the second and subsequent years of bailment a driver is entitled to 8 days of sick leave. Any untaken sick leave will accumulate.

For Commission – Method I the average earnings per shift over the preceding 3 months are used to work out the rate of sick leave. For Set Pay-in – Method II the rate of sick leave is set out at Item 4 of Table 2 of the Determination.

**Long Service Leave**

A driver may be entitled to long service leave if they have worked for the same taxi owner/operator continuously as a permanent driver for 5 years.

**Would you like more information?**

www.industrialrelations.nsw.gov.au
www.pointtopoint.nsw.gov.au
www.rms.nsw.gov.au