

A Guide for Taxi Owner/Operators

Important information for taxi owner/operators (bailors) in the taxi industry within the Greater Metropolitan Transport District about your obligations under the *Taxi Industry (Contract Drivers) Contract Determination 1984*

Who does the Determination apply to?

The Determination applies to a contract of bailment (that is, the operation of) a taxi cab in the Greater Metropolitan Transport District as defined.

A copy of the Determination must be made available for drivers.

Taxi owners/operators are required to display a copy of the Determination in a conspicuous place which is available to the driver/s.

You can download the Determination from www.industrialrelations.nsw.gov.au.

Can the provisions be changed by private agreement?

No they cannot. For further information or assistance, contact NSW Industrial Relations.

Types of Bailment

Permanent: A *permanent bailee* is a driver who regularly takes a taxi cab on **bailment from the same taxi owner/operator for:**

- five shifts per week; or
- at least 220 night shifts per year; or
- at least 230 day shifts per year.

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

Shift means the usage of a taxi cab by a driver for a period as agreed between you and the driver of at least nine (9) hours.

Day shift means a shift of at least nine (9) hours but not more than twelve (12) 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 (9) hours but not more than twelve (12) hours and at least 75(%) per cent of the hours are between 3 pm and 3 am.

Payment methods?

Driver to Choose the Method of Payment:

There are two (2) methods of payment, as set out in Schedule I of the Determination. They are:

Method I – Commission

Industry experience will determine the commission percentage.

First year permanent drivers are entitled to 45(%) per cent of all chargeable fares taken, including GST.

Casual or second and subsequent year permanent drivers are entitled to 50(%) per cent of all chargeable fares taken, including GST.

A driver can retain all tips.

Method II – Set Pay-in

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 (set out in Schedule 1, Election form – Method of Payment for Taxi Drivers, of Part A of the Determination).

The driver completes and signs the election form and returns it to you before commencement of the first shift and again within 90 days from the date of the first bailment. You must give the driver a receipted copy.

Penalties

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

Are records required?

Yes. To comply with industrial relations laws you must keep records.

What records must be kept?

You 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 drivers
- (3) records relating to any monies deducted by you or bonds deposited with the owner/operator by the driver
- (4) all Schedule I elections forms
- (5) all Schedule II Driver Log Books forms (as completed by the driver)
- (6) Receipts for each payment made by the driver.

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:

- (a) name of the legal entity of the taxi owner/operator
- (b) the Australian Business Number (ABN) of the taxi owner/operator
- (c) name of the driver, and
- (d) 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.

Leave provisions provided in the Determination?

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

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

Annual leave

A **permanent driver** is entitled to annual leave on completion of at least 220 night shifts or 230 day shifts within a twelve month period or on termination of contract. Annual leave is to be 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 driver'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 driver'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.

Sick leave

In the **first year of bailment** a permanent driver 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 driver is entitled to eight days sick leave. Untaken sick leave accumulates.

For **Method I** the average earnings per shift over the preceding three months are used to work out the rate of sick leave. For **Method II**, the rate set at Item 4 of Table 2 of the Determination.

Is a Driver entitled to Long Service Leave?

Yes – a driver will be entitled to long service leave if the driver has worked for the same taxi owner/operator continuously for ten years, either as a permanent or a casual driver. In some circumstances the driver may be entitled to long service leave after 5 years. For more information contact NSW IR.

How is a bailment terminated?

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

Need more information?

For further information you can:

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