

Taxi Industry (Contract Drivers) Contract Determination 1984

NSW Industrial Relations

Session Overview

More knowledge and understanding

- Taxis/Hire Car legislation in NSW
- Taxi Industry (Contract Drivers) Contract Determination 1984
 - Terms of engagement
 - Method of payment
 - Leave entitlements
 - Invoice & Record Keeping
 - Owner/Driver Obligations
- Where to go for information



Taxi Industry

Taxi Legislation in NSW

- Taxis in NSW are now covered by:
 - Point to Point Transport (Taxis/Hire vehicle) Act 2016; and
 - Point to Point (Taxis/Hire vehicle) Regulation 2017
- The Point to Point Transport Commission manages the enforcement of the Act and regulation
- **Point to Point contact information:**
 - Phone: **131 727**
 - www.pointtopoint.nsw.gov.au

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Taxi Legislation in NSW

- Taxi and Hire Car drivers as of 1 November 17 are required to hold a Passenger Transport **Licence Code** on an unrestricted Australian Licence.
- The **Licence Code** provides for safety standards that is the responsibility of the Taxi provider to ensure:
 - that drivers pass a criminal threshold,
 - medical fitness to drive,
 - have an unrestricted driving licence for at least 12 months in the last 2 years and pass English testing

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Taxi Legislation in NSW

- **Roads and Maritime Services (RMS)** manages:
 - Driver licensing,
 - Passenger Transport licence code for medical standards
 - Vehicle registration for taxis and hire vehicles
 - **Roads and Maritime:** 13 22 13
 - www.rms.nsw.gov.au

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The Determination

- Sets minimum terms of engagement and shall apply to a Contract of Bailment of a taxi cab in the **Metropolitan Transport District*** made after or existing at 12 March 1984. (*As defined by Transport NSW)

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- Taxis within the Metropolitan Transport District in Sydney are not covered by the National Workplace Relations System and the *Fair Work Act 2009*
- Remain within the NSW Industrial Relations System and chapter 6 of the Industrial Relations Act 1996
- The Taxi industry in other transport districts in NSW are not covered by the (Contract Drivers) Contract Determination but still fall under Point to Point legislation

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This contract determination only applies to the transport metropolitan district as prescribed by the *Transport Administration Act 1988*.

To help with the coverage of the **Taxi Industry (Contract Drivers) Contract Determination, 1984 and who it applies to** the following transport metropolitan district and suburbs include:

City of Sydney	Northern	Southern	Eastern	Western
City of Sydney Baulkham Hills Shire Castlereagh Dundas Eastwood Ermington and Rydalmere Hunter's Hill Hornsby Shire Ku-ringgai	Lane Cove Manly Mosman North Sydney Richmond Ryde Warringah Shire Willoughby Windsor Bankstown Bexley *Bulli Shire Cabramatta and Canley Vale •Camden Campbelltown Canterbury Darlington Enfield Erskineville	Fairfield Hurstville Ingleburn Kogarah Liverpool Marrickville Nepean Shire Newtown Rockdale St. Peters Sutherland • Wollondilly Shire	Alexandria Botany Mascot Paddington Randwick Redfern Vaucluse Waterloo Waverley Woollahra	Annandale Ashfield Auburn Balmain Blacktown Shire Burwood Concord Drummoyne Glebe Granville Holroyd Homebush Leichhardt Lidcombe Parramatta Penrith Petersham Strathfield St. Mary's

- Portion within County of Cumberland.

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Displaying a copy of the determination

- Industrial Relations Act 1996, Section 361
- Any Bailor (Owner/Operator) engaging Bailees (Drivers) must display a copy of The Taxi Industry (Contract Drivers) Contract Determination 1984, and
- Must be made freely available for drivers in a place/location at the business and/or depot

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Bailor or Bailee?

- Bailor is the **Owner/Operator** of the Taxi
- Bailee is a **Driver** who hires the taxi from the owner/operator for a shift as a permanent or casual driver

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PERMANENT ENGAGEMENT

- Regularly takes a taxi cab on bailment from the same bailor for five shifts per week or at least 220 night shifts per year
- Entitled to paid annual leave, sick leave and long service leave
- Termination, one weeks notice by either party is required

CASUAL ENGAGEMENT

- Is a driver (bailee) not being permanent and with no entitlement to any paid leave
- Termination: no notice is required for a casual bailee
- ✓ Go to our website for Taxi Industry New fact sheet for taxi owners and operators
- ✓ new fact sheet for taxi drivers
- ✓ Recorded Webinars

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Shift

- Shift means the usage of a taxi cab by a driver for a period as agreed between the owner/operator and the driver of at least 9 hours

Day Shift

- Day shift means a shift of at least 9 hours but not exceeding 12 hours at least 75 % of hours are between 3 am and 3 pm

Night Shift

- Night shift means a shift of at least 9 hours but not exceeding 12 hours at least 75 % of hours are between 3 pm and 3 am

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Method of Payment

The Driver shall have the legal right to choose and elect to operate under:

- Method I (commission) or Method II (set pay-in)
- A driver commencing a new contract of bailment has the right to elect the method of payment after engagement by the owner/operator:
 - before commencing the first shift; and
 - again within 90 days from the date of the first bailment with the owner/operator

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Election Form – Method of Payment for Taxi Drivers

- An owner/operator shall give to any driver who has a right of choice as specified, an election form as set out in Schedule 1, of Part A of the determination
- The driver shall complete and sign the election form and return it to the owner/operator, who shall give the driver a receipted copy

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Driver Not to be Victimised

- An owner/operator shall allow a **driver** the right to exercise the right to elect the method of payment available under the determination, freely, voluntarily and without pressure of any kind
- It shall be a breach of this determination for a driver to be victimised or terminated because of their choice of method of payment that the driver has made

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Method of Payment for Taxi Drivers

- **Method I – Commission**
- A driver who operates on Method I shall be entitled to receive and retain from the chargeable fares, the amount of the driver's percentage
- Where a driver's log book is supplied by the owner/operator, the driver shall record on that log, the following information;
 - Meter readings, trips and units, as prescribed in the drivers log book
- The operator pays for all fuel and car wash

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Method of Payment for Taxi Drivers

- **Method I – Commission**
- A First Year permanent driver shall be 45% of all chargeable fares taken, including GST
- A Casual or Second and Subsequent Year permanent driver shall be 50% of all chargeable fares taken including GST
- Notation: The casual driver's percentage includes compensation for not having sick or annual leave entitlements
- A driver can retain tips

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Method of Payment for Taxi Drivers

- **Method II – Set Pay-in**
- A driver shall be entitled to receive and retain from the chargeable fares, the balance left after deducting the amounts set out in Table 1 – Wages, Part B
- An owner/operator and a driver may agree on lesser Pay-in amounts than those specified in Table 1 – Wages, Part B
- provided that such an agreement shall not operate to relieve the owner/operator of the obligation to comply with any requirement of the determination e.g. Annual leave

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Method of Payment for Taxi Drivers

- **Method II – Set Pay-in**
- The driver shall at the conclusion of each shift pay to the owner/operator that part of the chargeable fares which the driver is not entitled to receive and retain
- The owner/operator shall give to the driver a dated and signed receipt for each such payment, no later than the first occasion the driver attends for work in normal business hours after the payment has been made
- The driver shall pay for fuel and car wash

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MAXIMUM PAYINS EFFECTIVE 22 JULY 2012

SHIFT	MAX PAYIN(Inc GST)	KILOMETERS (for excess fee)
ALL DAY	\$175.01	260
NIGHT		
Monday	\$189.89	300
Tuesday	\$193.18	320
Wednesday	\$208.30	320
Thursday	\$235.03	350
Friday	\$266.55	400
Saturday	\$266.55	400
Sunday	\$206.63	320

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Invoice and Record Keeping Procedures

The Owner/Operator shall provide, or must have previously provided, the driver with:

- The name of their legal entity and the ABN by no later than the commencement of each shift

The owner/operator shall provide the driver with:

- A tax invoice which complies with the GST legislation by no later than 14 days after the completion of each shift
- Tax invoices may include more than one shift

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Invoice and Record Keeping Procedures

The owner/operator shall generate and maintain copies of the following records for a period of six (6) years:

- Tax invoices
- Records relating to the calculation and payment of:
 - annual leave, sick leave, long service leave and down time entitlements of drivers
- Records relating to any monies deducted by the owner/operator or bonds deposited by the driver to the owner/operator
- All Schedule I election forms and Schedule II Driver Log Book forms
- Payment Receipts from Bailee to Bailor

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Annual Leave

- A permanent driver for a period of 12 months who has completed a minimum of 230 shifts or 220 night shifts from the one bailor shall be:
 - entitled to 5 weeks' annual leave, exclusive of any public holidays occurring during that period

Method I

- Payment in total for such annual leave shall be equal to $\frac{5}{47}$ of the driver's total entitlement from the chargeable fares during those twelve months

Method II

- Shall be entitled to 5 weeks' annual leave, exclusive of any public holidays occurring during that period, at the rate set out in Item 2 of Table 2

Pro-rata Annual Leave payment for 3 months or more but less than 12 months service

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Sick Leave

- A permanent driver shall be entitled to five (5) days' sick leave during the first year of bailment:
 - Pro-rata leave available after the completion of 55 shifts in a three month period
- During the second and subsequent years, a permanent driver shall be entitled to eight (8) days' sick leave
- The rights and entitlements to sick leave under this clause shall accumulate
- A permanent bailee in the industry, with one or more bailors shall not be entitled to total sick leave in excess of that stipulated above in any 12 months period

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Long Service Leave

- Permanent drivers, who have served continuously with one owner/operator for a period of not less than five years, shall be entitled to long service leave
- The conditions of eligibility for leave, shall be by reference to the Long Service Leave Act 1955,
- The calculation of the rate per week of such leave shall be equivalent to the rate per week provided in clause 19, Annual Leave, of this determination

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Other rates payable

- Holiday rate: \$833.28 per week x 5 weeks per year
- Sick leave: \$167.22 per day

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Provisions of Uniforms

- Where the owner/operator requires the driver to wear a distinctive dress or uniform, it shall be provided and laundered free of cost to the driver
- At all times the driver shall present him/herself for work in dress to comply with Department of Roads and Maritime Services regulations

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The Owner/Operator shall pay for all:

- Oil, maintenance, registration and licence fees in respect of the operation of the taxi cab; and
- Fuel in respect of any driver operating under method I - Commission
- In this respect the owner/operator reserves the right to nominate the points for the purchase of fuel, oil and other such commodities
- The driver under method I shall hand to the owner/operator, at the conclusion of each shift, receipts for the purchase of such items

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The driver shall at all times during the bailment:

- Comply with all Acts, regulations, by-laws, ordinances and all legislative provisions in force, in regard to motor vehicles, motor traffic and taxi cabs
- Exercise proper care for and control of the taxi cab for fare paying passengers and luggage only, and
- Not permit any other person to drive the cab or operate outside the area for which it is licensed to operate without permission

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The driver shall at all times during the bailment:

- Comply with all rules and by-laws of any co-operative in association with which the taxi cab is operated or any company or other group associated with the co-operative
- At the conclusion of each shift or the earlier termination of the bailment, the driver shall return the taxi cab to the garage or depot being used by the owner/operator

Where to go for Further Information

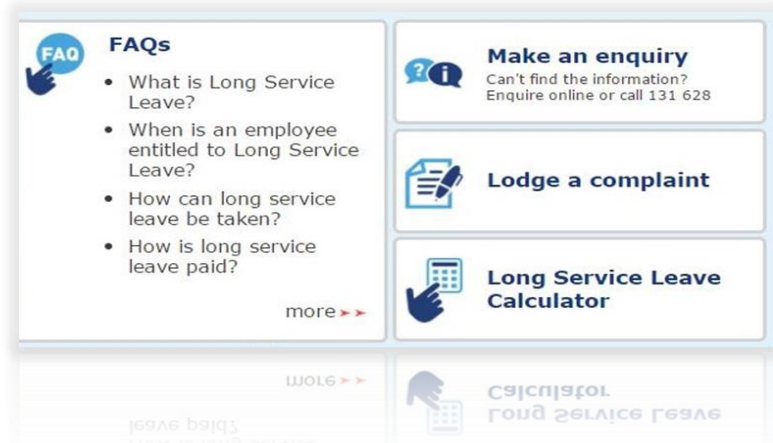


Our Website

NSW Industrial Relations - 13 16 28



www.industrialrelations.nsw.gov.au



- Call us on 13 16 28
- Assistance with Tax enquiries
- Easy way to lodge a complaint by using our on-line application form
- Long Service Leave calculator for getting to the right summation

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Workshop Program FREE face to face sessions in Metro and Country locations including

- Rights and Responsibilities for Employers in NSW
- Paying Employees in NSW
- Long Service Leave
- Parental Leave



Live and recorded webinars

- Each month 3 sessions are provided at different times to suit
- Recorded webinars are available for training and support
- Many topics on-line now ready to assist

Useful Contacts

Details

Point to Point Transport Commission – 131 727

www.pointtopoint.nsw.gov.au

Roads and Maritime – 13 22 13

www.rms.nsw.gov.au

Transport for NSW – 131 500

www.transport.nsw.gov.au

SafeWork NSW – 131050

www.safework.nsw.gov.au

Anti Discrimination Board of NSW – (02) 9268 5544

www.antidiscrimination.justice.nsw.gov.au