

Taxi Amendment Bill 2005

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

Taxi Amendment Bill 2005

A Bill for

An Act to amend the *Taxi Act 1994*.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Taxi Amendment Act 2005*.

2. Commencement

- 5 (1) Subject to subsection (2), this Act comes into operation on the day on which it receives the Royal Assent.
- (2) Subject to subsection (3), Part 2 comes into operation on a day fixed by proclamation.
- 10 (3) If Part 2 has not come into operation before the expiry of 3 years after the day on which this Act receives the Royal Assent, Part 2 is repealed on the expiry of that period.

3. The Act amended

The amendments in this Act are to the *Taxi Act 1994**.

[* *Reprinted as at 11 October 2002.*

15 *For subsequent amendments see Western Australian Legislation Information Tables for 2004, Table 1, p. 449.]*

Part 2 — Amendments about multi-purpose taxi plates

4. Part 3 Division 3 inserted

After section 30 the following Division is inserted in Part 3 —

“

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Division 3 — Multi-purpose taxi plates buy-back

30A. Interpretation and application

(1) In this Division —

“**buy-back agreement**” means an agreement under section 30B;

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“**eligible operator**” means an operator who operates 10 or more multi-purpose taxis that use transferable MPT plates owned by an MPT investor-owner who —

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(a) is not the operator; and

(b) is a party to a buy-back agreement;

“**MPT investor-owner**” means a person who —

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(a) is the owner, or has an interest in the ownership, of transferable MPT plates; and

(b) is not a driver of the vehicle operated as a multi-purpose taxi using the plates;

“**MPT owner-driver**” means a person who —

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(a) is the owner, or has an interest in the ownership, of transferable MPT plates; and

(b) is a driver of the vehicle operated as a multi-purpose taxi using the plates;

“**multi-purpose taxi**” or “**MPT**” means a taxi that is intended principally for the transport of persons who have a disability and any wheelchairs or other aids required by those persons;

“transferable MPT plates” means taxi plates that are —

- (a) used on a taxi that operates as a multi-purpose taxi; and
 - 5 (b) owned, or an interest in which is owned, by an MPT investor-owner or an MPT owner-driver.
- (2) Except as otherwise expressly provided in this Division, this Division does not limit any other
- 10 provision of this Act in relation to the offering for lease or issuing of taxi plates for multi-purpose taxis.

30B. Buy-back agreements

- 15 (1) The Director General may enter into an agreement, on such terms and conditions as the Minister approves, with a person who is an MPT investor-owner or an MPT owner-driver for the payment to the person of an amount of compensation for the surrender and cancellation of the transferable MPT plates that are the subject of the agreement.
- 20 (2) A buy-back agreement has effect only if the Minister has published a notice under section 30C(2).

30C. Operation of sections 30D to 30G to be subject to conditions

- 25 (1) Sections 30D, 30E, 30F and 30G have effect —
 - (a) only if the Minister publishes a notice under subsection (2); and
 - (b) on and after the date of publication of the notice, or any later date specified in the notice.
- 30 (2) If the Minister is satisfied that, for the effective operation of this Division, a sufficient number of MPT investor-owners and MPT owner-drivers have accepted an offer to enter into a buy-back agreement within the

time approved by the Minister, the Minister is to publish a notice in the *Gazette* accordingly.

30D. Certain MPT owner-drivers and eligible operators to be offered leases of taxi plates for multi-purpose taxis

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(1) Taxi plates to be used on a multi-purpose taxi shall, subject to this section, be offered for lease to —

(a) each MPT owner-driver who is a party to a buy-back agreement; and

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(b) each eligible operator.

(2) One set of taxi plates is to be offered for lease under subsection (1) in respect of each set of transferable MPT plates surrendered and cancelled under this Division.

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(3) If an MPT owner-driver who is a party to a buy-back agreement and who, but for this subsection, would be offered a lease under subsection (1) so agrees, the offer may be made instead to another person who, in the opinion of the Director General, has an interest in the ownership of the same set of transferable taxi plates the subject of the buy-back agreement.

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(4) An offer to lease under this section lapses if it is not accepted within the time specified in the offer.

(5) An offer to lease under this section is to specify that —

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(a) the term of the lease is to be for —

(i) if the offer is made to an MPT owner-driver or a person referred to in subsection (3) — subject to section 30F(3), the period of 10 years;

30

or

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- (ii) if the offer is made to an eligible operator — the period referred to in section 30E(2);
- and
- 5 (b) it is to be a condition of the lease that the lessee —
 - (i) is to operate a vehicle as a multi-purpose taxi using the leased taxi plates for the period of 3 years; and
 - 10 (ii) is to provide a bond or other security in a form and of an amount as is approved by the Minister for the due observance of the condition referred to in subparagraph (i).
- 15 (6) The provision by a lessee of a bond or other security referred to in subsection (5)(b)(ii) does not affect —
 - (a) the liability of the lessee to any penalty for an offence for a contravention of this Act; or
 - 20 (b) any other action that might be taken or is required to be taken in relation to any contravention of this Act.
- (7) Subject to sections 30E(1) and 30F(1) and (2), section 16(4), (5) and (6) apply in respect of taxi plates offered for lease under this section.
- 25 (8) Despite anything to the contrary in a buy-back agreement, until a set of leased taxi plates for a multi-purpose taxi are issued to an MPT owner-driver who is a party to the agreement, to a person to whom an offer is made under subsection (3) or to an eligible operator —
 - 30 (a) the amount of compensation payable under the agreement is not to be paid; and

-
- (b) the person who is the owner, or each person who has an interest in the ownership, of the transferable MPT plates the subject of the agreement continues —
- 5 (i) to be the owner, or to have an interest in the ownership, of those transferable MPT plates; and
- (ii) to be subject to all of the rights and obligations of such a person under
- 10 this Act.
- (9) Subject to sections 30E(1) and 30F(1) and (2), sections 16(2a) and 18(1a), (1b), (2) and (3) apply in respect of taxi plates offered for lease under this section as if —
- 15 (a) the acceptance of the offer was an application for the lease of taxi plates; and
- (b) the person who accepts the offer was the applicant.

20 **30E. Leases by eligible operators of taxi plates for multi-purpose taxis**

- (1) Section 16(4), (5) and (6) do not apply in relation to taxi plates offered for lease under section 30D(1) to an eligible operator.
- 25 (2) The term of a lease of taxi plates offered under section 30D(1) to an eligible operator is to be for a period of between 3 and 5 years.

30F. Leases by certain MPT owner-drivers and others of taxi plates for multi-purpose taxis

- 30 (1) If an MPT owner-driver —
- (a) is a party to a buy-back agreement;
- (b) accepts an offer under section 30D(1) to lease taxi plates; and

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(c) is the owner, or has an interest in the ownership, of taxi plates that are not transferable MPT plates,

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section 16(4)(b), (5)(d)(i) and (6)(d)(i) and (e)(i) do not apply in relation to the ownership, or interest in the ownership, of the taxi plates referred to in paragraph (c).

(2) If a person to whom an offer to lease taxi plates is made under section 30D(3) —

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(a) accepts the offer; and

(b) is the owner, or has an interest in the ownership, of taxi plates that are not transferable MPT plates,

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section 16(4)(b), (5)(d)(i) and (6)(d)(i) and (e)(i) do not apply in relation to the ownership, or interest in the ownership, of the taxi plates referred to in paragraph (b).

(3) The term of a lease of taxi plates offered —

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(a) under section 30D(1) to an MPT owner-driver referred to in subsection (1); or

(b) under section 30D(3) to a person referred to in subsection (2),

is to be for a period of between 3 and 5 years.

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30G. Payment of compensation to certain parties to buy-back agreements

(1) In this section —

“**member of the pool**” means a person who is a party to a buy-back agreement and who forms part of a notional group comprising —

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(a) subject to subsection (2), each MPT owner-driver who has not accepted an offer

-
- under section 30D(1) within the time
specified in the offer; and
- (b) subject to subsection (3), each MPT
investor-owner.
- 5 (2) An MPT owner-driver is not a member of the pool in
respect of transferable MPT plates if the MPT
owner-driver has been paid under a buy-back
agreement for the surrender and cancellation of those
10 plates as the result of a person having accepted an offer
under section 30D(3) within the time specified in the
offer.
- 15 (3) An MPT investor-owner is not a member of the pool in
respect of transferable MPT plates if the MPT
investor-owner has been paid under a buy-back
agreement for the surrender and cancellation of those
plates as the result of an eligible operator having
accepted an offer under section 30D(1) within the time
specified in the offer.
- 20 (4) Despite anything to the contrary in a buy-back
agreement —
- (a) the amount of compensation payable under the
agreement to a member of the pool is not to be
paid; and
- (b) a member of the pool continues —
- 25 (i) to be the owner, or to have an interest in
the ownership, of the transferable MPT
plates the subject of the agreement; and
- (ii) to be subject to all of the rights and
obligations of such an owner under
30 this Act,
- until —
- (c) a set of taxi plates for a multi-purpose taxi is
issued on lease under section 18; and
- (d) the member is selected under subsection (5).
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- 5 (5) On each occasion that a set of taxi plates for a multi-purpose taxi is issued on lease under section 18, a member of the pool is to be selected by ballot and paid the amount due as compensation under the buy-back agreement to which the member is a party.
- 10 (6) A reference in subsections (4)(c) and (5) to the issue of taxi plates on lease does not include a reference to the issue of taxi plates on lease resulting from the acceptance of an offer under section 30D within the time specified in the offer.
- 15 (7) Despite section 16(3), taxi plates for multi-purpose taxis are to be offered for lease under section 16(2) until each member of the pool has been paid, in accordance with this section, the amount due as compensation under the buy-back agreement to which the member is a party.

30H. Consolidated Fund charged with payment for plates

20 Money payable under a buy-back agreement is to be charged to the Consolidated Fund, which is, to the necessary extent, appropriated accordingly.

”.

5. Amendments consequential to Part 3 Division 3

- 25 (1) Section 3(1) is amended in the definition of “lease” by deleting “acquire, by virtue of a successful application under section 16(2), the right to use the plates for a period specified by the Director General;” and inserting instead —
- “
- 30 acquire —
- (a) by virtue of a successful application under section 16(2), the right to use the plates for a period specified by the Director General; or

(b) the right to use the plates for a period under Part 3 Division 3;

”.

5 (2) Section 3(1) is amended in the definition of “lessee” by deleting “acquires, by virtue of a successful application under section 16(2), the right to use the plates for a period specified by the Director General;” and inserting instead —

“

acquires —

- 10 (a) by virtue of a successful application under section 16(2), the right to use the plates for a period specified by the Director General; or
- (b) the right to use the plates for a period under

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”.

(3) After section 25(1)(a) the following paragraph is inserted —

“

- 20 (aa) if the plate holder is a party to a buy-back agreement within the meaning of section 30A — entering into an agreement to lease taxi plates under section 30D or being selected by ballot under section 30G(5), as is relevant;

”.

Part 3 — Other amendments

6. Section 3 amended

- (1) Section 3(1) is amended by deleting the definition of “operate” and inserting instead —

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“

“operate” means —

- (a) to drive a vehicle as a taxi;
- (b) to own or lease taxi plates; or
- (c) to cause another person to drive a vehicle as a taxi by providing to the person —
 - 10 (i) the vehicle, under a lease or otherwise; and
 - (ii) taxi plates for use on or in the vehicle, under a plate owner’s lease or
 - 15 otherwise;

”.

- (2) Section 3(1) is amended by inserting after the definition of “plate holder” —

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“

“plate owner’s lease” means the right acquired from the owner of taxi plates to use the plates for a specified period of time;

”.

7. Section 16 amended

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- (1) After section 16(2) the following subsection is inserted —

“

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- (2a) If an application for the lease of taxi plates is made by an applicant who is not eligible to lease the plates under subsection (4)(b) or (c), (5)(d) or (6)(d) or (e), the application is subject to the condition that, if the application is successful, the taxi plates will not be

issued unless the relevant provision has been complied with.

”.

- 5 (2) Section 16(5)(d) and (6)(d) and (e) are amended by deleting
“subject to subsection (7),”.
- (3) Section 16(7) is repealed.
- (4) Section 16(10) is amended as follows:
- (a) at the end of the definition of “relevant percentage” by
deleting the semicolon and inserting instead a full stop;
- 10 (b) by deleting the definitions of “restricted taxi plates” and
“unrestricted taxi plates”.

8. Section 18 amended

Section 18(1a) is repealed and the following subsection is inserted instead —

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“

- (1a) If an application for taxi plates was subject to the condition referred to in section 16(2a), a set of taxi plates may be issued under subsection (1) in respect of the application only if the Director General is satisfied that the condition has been complied with.

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”.

9. Section 36 amended

Section 36(1) is amended in the definition of “operator” by deleting “, by leasing or otherwise, another person to drive that vehicle.” and inserting instead —

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“

another person to drive the vehicle as a taxi by providing to the person —

- (a) the vehicle, under a lease or otherwise; and

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- (b) taxi plates for use on or in the vehicle, under a plate owner's lease or otherwise.

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