

## **TAXI AMENDMENT BILL 2007**

### **Explanatory Notes**

This Bill amends the *Taxi Act 1994* in three important ways that achieve the Government's objective of enabling the taxi industry to provide a timely and efficient taxi service to consumers, and ongoing viability for taxi operators.

Firstly we are improving the enforceability of conditions. When the Taxi Act was first drafted, it was not envisaged that taxi plates would, for long periods of time, not be affixed to vehicles being operated as a taxi. By not affixing a plate to a taxi, operators have been able to circumvent the effect of conditions imposed by the Director General on the operation of the taxi.

The Director General's ability to require taxi operators to operate is an essential feature of the legislative scheme to ensure that the public receives an efficient taxi service. This ability is compromised in situations where taxi plates are not affixed to a vehicle.

Secondly we are providing greater flexibility to issue more plates in response to demand for taxi services.

The proposed amendments will change the permitted percentage of the fleet that can be leased plates. The cap will now apply only to conventional or fulltime non – restricted cabs and will be set at 40%. This will allow the Government to more quickly respond to increases in taxi demand as well as offering more taxi operators a low-cost option for participating in the taxi industry. At the same time it will ensure that the owners of transferable plates do not lose value of their investment

These changes on the cap will also free up the release of new peak period plates. This policy may affect the value of peak period plate prices and therefore raises issues of equity.

Thirdly, a new Division 4 within Part 3 of the Act will provide an opportunity for the owners of transferable restricted hours taxi plates to upgrade their plates to owned conventional plates on terms to be approved by the Minister. The upgrade will be facilitated through agreements that the Director General may enter into with owner of restricted hours taxi plate owners.

### **Clause 1 – Short Title**

A formal clause titling the Act.

### **Clause 2 - Commencement**

The Act commences the day after the day on which the Act receives the Royal Assent.

### **Clause 3 – The Act that Part 2 of the Bill will amend**

A clause identifying the Act that the Bill is to amend.

### **Clause 4 – section 3 amended**

This amendment will insert a general definition that identifies taxi plates that are used in particular circumstances. The circumstances are those determined by particular sets of operating conditions imposed under section 21(1) of the Act upon a number of taxi operators. Specifically, ‘conventional taxi plates’ are to be plates that are not used in operations that are restricted as to time or area and are not used on multi purpose taxis.

The defined term is to be used in the proposed recasting of section 16(3) of the Act and in the proposed new section 30I(3), (4) and (5).

Also the definition of “taxi plate” is amended. Under the current provisions a plate is a “taxi plate” if it is issued under section 18. The proposed new Part 3 Division 4 includes a provision, section 30I(2), under which plates are to be issued. Accordingly, the definition of “taxi plate” needs to include a reference to that provision so that plates issued under it are “taxi plates” for the purposes of the rest of the Act.

### **Clause 5 – Section 16 amended**

Clause 5(1) inserts the words “conventional taxi” (the words implicitly taking their meaning from the proposed definition of “conventional taxi plate”) in section 16(3). The aim is to limit the application of the prescribed percentage by reference to taxis that operate without restrictions as to time and area and that are not multi purpose taxis.

Clause 5(2) clarifies the operation of the relevant percentage mechanism in section 16(1). It does this by stating explicitly that a figure that appears in the regulations will only override the figure that appears in the Act if the figure in the regulations is higher than the figure that appears in the Act.

### **Clause 6 – Section 18 amended**

This proposed clause removes the scope for misunderstanding on the basis of arguable terminological inconsistency in the Act.

Under the Act various categories of person can be taxi “operators”. The legislation provides for the management of the taxi operations undertaken by these people. At some places in the Act the language could be understood to suggest that it is the taxis themselves that are operating (as opposed to ‘being operated’). This proposed amendment rectifies one such instance of such language.

## **Clause 7 - Section 21 amended**

Inserting Section 21 (1a) (a) will specify when the taxi plates must be affixed to a taxi car. In this case 14 day following their issue or transference. Section 21 (1a) (b) specifies that as long as the plate holder owns or leases the plates then they must be affixed to a taxi car without the prior written approval of the Director General.

A specific penalty of \$5000 is introduced for failure to comply with Section 21 (1a).

## **Clause 8 - Section 23 amended**

Section 23 details the divestiture and forfeiture for taxi plates. Section 23 amended defines gives the Director General power to serve a notice on a taxi plate owner who is convicted of any offence under the Taxi Act. The offence under the Taxi Act gives a basis to the Director General's 'belief' in Section 21 (1).

## **Clause 9 – Section 30A amended**

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## **Division 4 – Exchange of restricted hours taxi plates**

This Division seeks to insert new provision into the Act whereby a mechanism is provided by which restricted hours taxi plates can be converted to conventional taxi plates.

### ***Clause 30(I) (1)***

This Clause inserts the definitions of a ‘restricted hours taxi’ (RHT); the ‘owner’ of a restricted hours taxi plate; as well as the definition of a ‘restricted hours taxi plate’.

### ***Clause 30(I) (2)***

This Clause inserts into the Act the provisions by which the Director General may enter into agreement with the owner of a RHT to surrender the RHT plate and for the issuing by the Director General of a conventional taxi plate.

### ***Clause 30(I) (3)***

This Clause allows the owner of the RHT plate to pay an amount of money to the Director General as part of the consideration for the issue of a conventional taxi plate.

### ***Clause 30(I) (4)***

This Clause provides the provision of one set of conventional taxi plates to be issued for each RHT plate that has been surrendered by a RHT owner.

***Clause 30(1) (5)***

There are circumstances where there may be more than one owner of a RHT plate. For instance, RHT plates may be owned by a husband and wife or by a company. This Clause allows the Director General to enter into an agreement with any other person who may have an interest in the ownership of the RHT plate.

***Clause 30(1) (6)***

This Clause ensures that the application of this Section of the Act does not limit a person to the sale or issue of taxi plates to which the Act applies.