

Western Australia

Taxi Amendment Bill 2003

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Western Australia

LEGISLATIVE ASSEMBLY

Taxi Amendment Bill 2003

A Bill for

An Act to amend the *Taxi Act 1994*.

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Taxi Amendment Act 2003*.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

3. The Act amended

5 The amendments in this Act are to the *Taxi Act 1994**.
[* Reprinted as at 11 October 2002.]

4. Section 3 amended

(1) Section 3(1) is amended as follows:

10 (a) by inserting after the definition of “Director General” the following definition —

“

“**lease**”, in relation to taxi plates, means to acquire the right to use the plates for a period specified by the Director General;

15

”;

(b) by deleting the definition of “plate owner” and inserting the following definition instead —

“

“**plate holder**” means the owner or lessee of taxi plates;

20

”.

(2) Section 3(3)(a) is amended after “relation to a tender” by inserting —

“ or application ”.

25 **5. Section 16 amended**

Section 16 is amended as follows:

(a) before “Taxi” by inserting the subsection designation “(1)”;

(b) at the end of the section by inserting the following subsections —

“

5

(2) Taxi plates shall also be offered for lease, with the invitation to apply to lease taxi plates specifying —

10

- (a) the criteria to be met by the successful applicant;
- (b) the period for which the plates are offered for lease;
- (c) the periodic payments that are payable to lease the plates; and
- (d) the conditions to be imposed on the operation of a taxi using the plates which are being offered for lease.

15

(3) Without limiting subsection (2)(a), taxi plates may be leased by an individual only if the Director General is satisfied that the individual —

20

- (a) will be the owner and principal driver of the vehicle operated as a taxi using the plates;
- (b) is not the owner, and has no interest in the ownership, of taxi plates; and
- (c) is not the lessee of taxi plates.

25

(4) Without limiting subsection (2)(a), taxi plates may be leased by the members of a partnership only if the Director General is satisfied that —

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- (a) a member of the partnership will be the owner and principal driver of the vehicle operated as a taxi using the plates (the “**owner-driver**”);
- (b) each member of the partnership is an individual;
- (c) each member of the partnership (other than the owner-driver) is related to the owner-driver; and

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- (d) no member of the partnership —
 - (i) is the owner, or has an interest in the ownership, of taxi plates; or
 - (ii) is the lessee of taxi plates.
- 5 (5) Without limiting subsection (2)(a), taxi plates may be leased by a corporation only if the Director General is satisfied that —
 - 10 (a) a director or other person concerned in the management of the corporation, or a shareholder of the corporation, will be the owner and principal driver of the vehicle operated as a taxi using the plates (the **“owner-driver”**);
 - 15 (b) each shareholder of the corporation is an individual;
 - (c) each director or other person concerned in the management of the corporation, and each shareholder of the corporation, is related to the owner-driver;
 - 20 (d) the corporation —
 - (i) is not the owner, and has no interest in the ownership, of taxi plates; and
 - (ii) is not the lessee of taxi plates;and
 - 25 (e) no director or other person concerned in the management of the corporation, or shareholder of the corporation —
 - (i) is the owner, or has an interest in the ownership, of taxi plates; or
 - 30 (ii) is the lessee of taxi plates.
- (6) If the number of applicants who meet the criteria specified under subsection (2)(a) and are eligible under

subsection (3), (4) or (5) exceeds the number of taxi plates that the Director General determines to be available for lease, the successful applicants are to be selected by ballot.

- 5 (7) In subsections (4) and (5) —
- “**related**”, in relation to an owner-driver, means —
- (a) the spouse or de facto partner of the owner-driver;
 - (b) a parent or child of the owner-driver; or
 - 10 (c) a brother or sister of the owner-driver.

”.

6. Section 17 amended

- (1) Section 17(1) is amended as follows:
- 15 (a) after “tender” in each place where it occurs by inserting —
“ or application ”;
 - (b) in paragraph (c) before “disclose” by inserting —
“ in the case of a tender, ”.
- (2) Section 17(2) and (3) are each amended after “tender” by
20 inserting “or application”.

7. Section 18 amended

- (1) Section 18(1) is amended as follows:
- 25 (a) after “tender” in each place where it occurs (except in paragraphs (a)(ii) and (b)) by inserting —
“ or application ”;
 - (b) after “tenderer” in each place where it occurs by inserting —
“ or applicant ”;

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- (c) in paragraph (a)(ii) after “tender” by inserting —
“ or joint application ”;
- (d) in paragraph (a)(ii) after “tenderers” by inserting —
“ or applicants ”;
- 5 (e) in paragraph (a) by deleting “of taxi plates;” and
inserting instead —
“ or lessee of taxi plates, as the case requires; ”;
- (f) in paragraph (b) after “tender” by inserting —
“ or apply ”;
- 10 (g) after paragraph (b) by deleting “and” and inserting —
“
(ba) that, in the case of an application for taxi plates,
the applicant is eligible under section 16(3), (4)
or (5), as the case requires; and
15 ”;
- (h) before “issue the tenderer” by inserting —
“ , subject to section 16(6), ”.
- (2) Section 18(2)(a) is amended after “tendered” by inserting —
“ or the first periodic payment for the lease ”.
- 20 **8. Section 19 amended**
- (1) Section 19(1) is amended by deleting “plate owners” and
inserting instead —
“ plate holders ”.
- (2) Section 19(2) is repealed and the following subsection is
25 inserted instead —
“
(2) If a payment in respect of an annual fee is not made
within 30 days of the due date for that payment, or
such other date as the Director General may allow, the
30 right of the plate holder, or each plate holder, to those

plates is forfeited to the Director General, and those plates may then be offered for sale or lease, as the case requires, in accordance with section 16.

”.

5 **9. Section 19A inserted**

After section 19 the following section is inserted —

“

19A. Periodic payments for leased taxi plates

- 10 (1) The periodic payments for taxi plates that are leased are payable by plate holders at the times and in the manner determined by the Director General.
- 15 (2) If a periodic payment is not made on or before the due date for that payment, or such other date as the Director General may allow, the right of the plate holder, or each plate holder, to those plates is forfeited to the Director General, and those plates may then be offered for lease in accordance with section 16.

”.

10. Section 21 amended

20 Section 21(1) is amended after “owned” by inserting —
“ or leased ”.

11. Section 23 amended

- (1) Section 23(1) is amended after “an owner” by inserting —
“ or lessee ”.

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- (2) Section 23(2), (3) and (4) are repealed and the following subsections are inserted instead —

“

- 5 (2) Where a plate holder fails to satisfy the Director General in accordance with subsection (1), the Director General may serve notice on the person —
- 10 (a) in the case of an owner of taxi plates — requiring him or her to divest himself or herself of any interest in the ownership of taxi plates within 45 days after the day of service of the notice (the “**divestment period**”); or
- (b) in the case of a lessee of taxi plates — advising him or her of the effect of the relevant provisions of subsections (3) and (4).
- 15 (3) Where a person fails to divest himself or herself of his or her interest in the ownership of taxi plates within the divestment period or a person is served with a notice under subsection (2)(b) in relation to the leasing of taxi plates —
- 20 (a) his or her right to the plates is forfeited to the Director General —
- (i) if he or she has appealed under subsection (4) — on the making of a decision that confirms the Director General’s decision or that otherwise results in the forfeiture of that right; or
- 25 (ii) otherwise on the expiry of —
- (I) in the case of an owner of taxi plates — the divestment period; or
- 30 (II) in the case of a lessee of taxi plates — the period specified in subsection (4);

and

- (b) if he or she was the sole plate holder, the plates may then be offered for sale or lease, as the case requires, in accordance with section 16.
- (4) Where the Director General serves notice on a person under subsection (2), the person may within 14 days of service of that notice appeal to a Local Court against the Director General's decision that he or she is no longer fit to be an owner or lessee, as the case requires, of taxi plates.
- ”.

12. Section 23A inserted

After section 23 the following section is inserted —

“

23A. Forfeiture of leased taxi plates

- (1) If this section applies to a lessee of taxi plates the lessee forfeits to the Director General the right to the plates, which may then be offered for lease in accordance with section 16.
- (2) This section applies to —
- (a) an individual who leases taxi plates if —
- (i) the individual becomes the owner, or acquires an interest in the ownership, of taxi plates; or
- (ii) the individual ceases to be the owner and principal driver of the vehicle operated as a taxi using the plates;
- (b) the members of a partnership who lease taxi plates if —
- (i) a member of the partnership becomes the owner, or acquires an interest in the ownership, of taxi plates; or

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(ii) no member of the partnership is the owner and principal driver of the vehicle operated as a taxi using the plates;

5

and

(c) a corporation that leases taxi plates if —

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(i) the corporation, or a director or other person concerned in the management of the corporation, or a shareholder of the corporation, becomes the owner, or acquires an interest in the ownership, of taxi plates; or

15

(ii) no director or other person concerned in the management of the corporation, or shareholder of the corporation, is the owner and principal driver of the vehicle operated as a taxi using the plates.

”.

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13. Section 24 amended

After section 24(4) the following subsection is inserted —

“

(5) Taxi plates that are leased are not transferable.

”.

25

14. Section 25 amended

Section 25(1) is amended by deleting paragraphs (a) and (b) and “or” between them and inserting instead —

“

30

(a) if a lessee of taxi plates does not make another successful application under section 16(2) before the expiry of the period for which the plates were leased — the expiry of that period;

- (b) the forfeiture of the right to those plates under section 19(2), 19A(2) or 23A; or
- (c) if, as a result of forfeiture under subsection (3) of section 23, those plates may be offered for sale or lease in accordance with section 16 — the forfeiture of the right to those plates under that subsection.

”.

15. Section 30 amended

Section 30(5) is amended by deleting “7 days” and inserting instead —

“ 14 days ”.

16. Section 37 amended

Section 37(1) is amended as follows:

- (a) by deleting paragraph (d) and inserting the following paragraph instead —

“

- (d) a tenderer or applicant;

”;

- (b) after “owner” by inserting —

“ or lessee ”;

- (c) after “service,” by inserting —

“ as the case requires, ”.

17. Section 41 amended

- (1) Section 41(2)(c) is amended after “sale” by inserting —

“ or lease ”.

- (2) Section 41(5) is amended as follows:

- (a) after paragraph (d) by deleting “and”;

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(b) after paragraph (e) by deleting the full stop and inserting —

“

; and

5 (f) all expenditure, other than expenditure referred to in paragraphs (a), (b), (c), (d) and (e), lawfully incurred for the purposes of, or in meeting the costs and expenses of the administration of, this Act.

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”.

18. Various references to “plate owner” amended

The provisions listed in the Table to this section are amended by deleting “plate owner” in each place where it occurs and inserting instead —

15 “ plate holder ”.

Table

s. 3(1), definition of “operate”, paragraph (b)	s. 23(1)
s. 19(3)	s. 25(1)
s. 20(2)(a)	s. 32(3)
s. 20(2)(b)	s. 32(4)(a)
s. 20(3)	s. 32(6)
s. 20(4) (in 2 places)	s. 33(b)
s. 21(1)	s. 43(1)
s. 22(1)	s. 47(2)(a)
s. 22(2)	s. 47(2)(b)
