

c2016-057B.02  
OPP--OPPOSITION

## LEGISLATIVE COUNCIL

### Point to Point Transport (Taxis and Hire Vehicles) Bill 2016

First print

#### Proposed amendment

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##### No. 1 Functions of authorised officers

Page 38, clause 111 (1). Insert after line 8:

- (b) to determine the extent of compliance with relevant awards or determinations under this Act or the *Industrial Relations Act 1996* in the taxi and hire vehicle industry,

##### No. 2 Functions of Point to Point Transport Commissioner

Page 49, clause 139 (1). Insert after line 30:

- (d) to monitor compliance with relevant awards or determinations under this Act or the *Industrial Relations Act 1996* in the taxi and hire vehicle industry,

##### No. 3 Industrial matters relating to drivers

Page 53. Insert after line 30:

### **Part 11 Industrial matters relating to drivers**

#### **149 Vehicle as workplace**

For the purposes of the *Work Health and Safety Act 2011* and any other law of New South Wales (including common law), a taxi or hire vehicle is, while it is being used to provide a passenger service, a workplace.

#### **150 Minimum remuneration for drivers**

- (1) In any contract for the provision of a passenger service by a driver of a taxi or hire vehicle, the consideration for the contract is not to be less than the remuneration set by any award or determination under the *Industrial Relations Act 1996* for a person performing the work as an employee or, if there is no such award or determination, the remuneration that could reasonably be expected to be paid to a person performing the work as an employee.
- (2) A person commits an offence if the person (other than as a driver of a taxi or hire vehicle used to provide a passenger service under the contract) enters into, or offers to enter into, a contract that does not comply with this section.  
Maximum penalty: 100 penalty units.

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- (3) This section does not apply to a contract entered into with a passenger for the provision of a passenger service by means of a taxi or hire vehicle.

**151 Applications to Industrial Relations Commission**

- (1) An application may be made to the Industrial Relations Commission to have a question, dispute or difficulty affecting a driver of a taxi or hire vehicle or drivers of taxis or hire vehicles and a provider of a booking service, passenger service or taxi service determined by conciliation and, if necessary, arbitration, by:
- (a) a driver, or
  - (b) a driver acting on behalf of the driver and a number of other drivers, or
  - (c) an industrial organisation (within the meaning of the *Industrial Relations Act 1996*) acting on behalf of a driver or a number of drivers, or
  - (d) the Point to Point Transport Commissioner.
- (2) The Industrial Relations Commission may conduct such a dispute resolution process in any manner the Commission considers appropriate.
- (3) The Industrial Relations Commission may make such orders in relation to such a question, dispute or difficulty as the Commission considers fair and reasonable in the circumstances, including orders making awards or determinations of remuneration levels for drivers.
- (4) Any award or determination of remuneration levels for drivers must take into account all time worked by drivers, including time when the driver is not driving passengers in a taxi or hire vehicle but is on duty and driving to a location where the driver is to or may pick up passengers or waiting to be assigned a passenger service to provide in a taxi or hire vehicle.
- (5) An order of the Industrial Relations Commission under this section is enforceable under the *Industrial Relations Act 1996* as if it were an order made under that Act.
- (6) This section is in addition to, and does not derogate from, any action or proceedings that may be taken under the *Industrial Relations Act 1996*.

**No. 4 Review of Schedule 3**

Page 58. Insert after line 18:

**160 Review of Schedule 3**

- (1) The Minister is to review the effectiveness of Schedule 3 (Adjustment assistance for taxi and passenger hire vehicle industries) in achieving its policy objectives.
- (2) The review is to be undertaken as soon as possible after the period of 12 months from the date of assent to this Act or, if Schedule 3 is repealed before then, as soon as possible after that repeal.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 2 months after the period of 12 months or the repeal of Schedule 3 (as the case requires).

**No. 5 Panel to determine applications for funds**

Page 68, Schedule 3, clause 4 (1), lines 2–5. Omit all words on those lines. Insert instead:

- (1) The Panel:
- (a) may, on application, determine that an amount of additional assistance funds is payable to an applicant if satisfied that the applicant is or was involved in or connected with the taxi or hire vehicle industry and is

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detrimentally affected by changes made to regulation of those industries under this Act; and

- (b) if it does so, must inform the Minister accordingly so that the amount may be paid.

**No. 6 Panel to determine applications for assistance funds**

Page 68, Schedule 3, clause 4 (4)–(6), lines 12–20. Omit all words on those lines.

**No. 7 TWU representation on Taxi and Hire Vehicle Industries Assistance Panel**

Page 68, Schedule 3, clause 7 (1), line 36. Omit “4”. Insert instead “5”.

**No. 8 TWU representation on Taxi and Hire Vehicle Industries Assistance Panel**

Page 68, Schedule 3, clause 7 (2). Insert after line 38:

- (b) I is to be the Secretary of the Transport Workers’ Union of New South Wales, or the Secretary’s nominee; and

**No. 9 TWU representation Taxi and Hire Vehicle Industries Assistance Panel**

Page 69, Schedule 3, clause 7 (3). Omit the subclause. Insert instead:

- (3) If the NSW Taxi Council ceases to trade or is wound up or the Transport Workers’ Union of New South Wales ceases to be an industrial organisation of employees within the meaning of the *Industrial Relations Act 1996*, the organisation’s representative ceases to be a member of the Panel and the Panel is to consist of the remaining members.

**No. 10 TWU representation on Taxi and Hire Vehicle Industries Assistance Panel**

Page 69, Schedule 3, clause 7 (5), line 5. After “nominee” insert “, and the Secretary of the Transport Workers’ Union of New South Wales or the Secretary’s nominee,”.

**No. 11 Panel to determine applications for assistance funds**

Page 69, Schedule 3, clause 8 (a) and (b), lines 11–13. Omit all words on those lines. Insert instead:

- (a) to determine applications for assistance funds,

**No. 12 Panel to determine applications for assistance funds**

Page 69, Schedule 3, clause 8 (e) and (f), lines 18–22. Omit all words on those lines.

**No. 13 Panel to determine applications for assistance funds**

Page 69, Schedule 3, clause 9 (4), lines 33–35. Omit all words on those lines. Insert instead:

- (4) The nominee of the Chief Executive of the NSW Taxi Council and the nominee of the Secretary of the Transport Workers’ Union of New South Wales are each entitled to be present at, and participate in, meetings of the Panel but neither are entitled to vote at a meeting.

**No. 14 Panel to determine applications for assistance funds**

Page 70, Schedule 3, clause 11, lines 24–38. Omit all words on those lines.

**No. 15 Panel to determine applications for assistance funds**

Page 71, Schedule 3, clause 13 (2), lines 16–18. Omit all words on those lines. Insert instead:

- (2) The Panel may refuse an application for payment of assistance funds on the grounds that the applicant has engaged in improper conduct in relation to an application for, or payment of, assistance funds and, must do so, if the Minister

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advises the Panel that the Minister is satisfied that the applicant has engaged in such conduct.

**No. 16 Panel to determine applications for assistance funds**

Page 71, Schedule 3, clause 13. Insert after line 22:

- (4) If the Panel advises the Minister that it is satisfied that an amount of assistance funds has been paid to an applicant who has engaged in improper conduct in relation to the application for, or payment of, assistance funds, the Minister must take action in relation to that applicant under subclause (3).