



New South Wales

# Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* in response to the *Point to Point Transport Independent Review 2020*.

In particular, the Bill—

- (a) further deregulates the taxi industry, and
- (b) provides for consequential transitional arrangements and adjustment assistance, and
- (c) makes other miscellaneous amendments.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## Schedule 1      Amendment of Point to Point Transport (Taxis and Hire Vehicles) Act 2016 No 34

### Further deregulation of taxi industry

**Schedule 1[9]** removes limits on the provision of taxi services to specified areas of operation.

**Schedule 1[14]** makes a consequential amendment.

**Schedule 1[10]** removes the limit on the number of times a taxi licence may be renewed.

**Schedule 1[11]** abolishes taxi licence fees. **Schedule 1[7], [8], [19] and [21]** make consequential amendments.

**Schedule 1[12]** prevents taxi licences from being the subject of dealings such as leases, subleases, transfers and other arrangements. **Schedule 1[3] and [5]** make consequential amendments.

**Schedule 1[16]** removes caps on the number of taxi licences that may be issued annually.

### **Transitional arrangements and adjustment assistance**

**Schedule 1[23]** provides for transitional arrangements consequent on the further deregulation of the taxi industry. **Schedule 1[1]** makes a consequential amendment.

The provisions establish a *transitional period* from the start of which ordinary taxi licences are no longer transferable.

During the transitional period the grant of taxi licences, other than taxi licences for wheelchair accessible taxis, is limited to an applicant who nominates an existing licence that the Point to Point Transport Commissioner is satisfied was held by the applicant at the start of the transitional period. Granting an application for a taxi licence made during the transitional period results in the cancellation of the nominated licence, and the Point to Point Transport Commissioner must give written notice of the cancellation to the person listed as the owner of the nominated licence on the taxi licence register.

No fee is payable for a taxi licence application made during the transitional period, and existing licence holders are not required to return their current taxi number-plates if they transition to the new taxi licensing arrangements.

A determination by the Point to Point Transport Commissioner that an applicant did not hold the nominated licence, and is therefore not eligible to be granted a taxi licence during the transitional period, is not able to be reviewed by the Civil and Administrative Tribunal.

Outstanding licence fees for existing licences cease to be payable on the licences' cancellation.

**Schedule 1[24]**—

- (a) cancels all remaining existing licences to provide taxi services, and
- (b) brings an end to the transitional period, and
- (c) opens taxi licence applications to persons other than existing licence holders.

**Schedule 1[25]** enables regulations to provide for the payment of funds in connection with the cancellation of ordinary taxi licences issued under the *Passenger Transport Act 1990* and continued in force by savings provisions under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*. The amendment—

- (a) replaces the existing scheme for the payment of transitional assistance funds, and
- (b) enables regulations to establish eligibility criteria for payment of further transitional assistance funds, and
- (c) provides for the following matters—
  - (i) the source of further transitional assistance funds,
  - (ii) the refusal and recovery of further transitional assistance funds in connection with improper conduct,
  - (iii) termination of the provision of further transitional assistance funds.

The regulation-making power proposed to be enacted by Schedule 1[25] may be considered shell legislation.

### **Other amendments**

**Schedule 1[2]** provides that the transport, by a motor vehicle, of an authorised officer on duty may be a passenger service for the purposes of the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

**Schedule 1[4] and [6]** provide that the regulations under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* need not prescribe a fee to accompany an application for—

- (a) an authorisation to provide a taxi service or booking service, or
- (b) a taxi licence.

**Schedule 1[13]** makes it clear the Point to Point Transport Commissioner may vary, suspend or cancel a taxi licence if the licence holder provides a taxi service without being authorised to do so or without being an affiliated provider.

**Schedule 1[15]** clarifies that taking proceedings, or issuing a penalty notice, under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* may occur in addition to the variation, suspension or cancellation of a taxi licence.

**Schedule 1[17]** enables the Minister administering the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* to refer appropriate passenger service fares generally, rather than only appropriate maximum passenger service fares, to the Independent Pricing and Regulatory Tribunal for investigation and the making of recommendations. **Schedule 1[18]** makes a consequential amendment.

**Schedule 1[20]** provides that no compensation is payable by the State because of amendments to the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, including the amendments in the Bill that—

- (a) further deregulate the taxi industry, and
- (b) cancel all remaining existing licences to provide taxi services.

**Schedule 1[22]** ensures that regulations under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* may require the Point to Point Transport Commissioner be provided information about wheelchair accessible vehicles.

**Schedule 1[26]** increases, from 1 July 2023, the amount of levy payable on a passenger service transaction (the *passenger service levy*) from \$1 to \$1.20.

**Schedule 1[27]** provides that the passenger service levy is not payable for a passenger service provided on or after—

- (a) 1 January 2031, or
- (b) an earlier day specified by the Minister administering the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.



New South Wales

# Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022

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New South Wales

# Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022

No. , 2022

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## A Bill for

An Act to amend the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* in response to a review of the Act; and for related purposes.

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**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Point to Point Transport (Taxis and Hire Vehicles) Amendment Act 2022*.

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**2 Commencement**

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This Act commences as follows—

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(a) for Schedule 1[26] and [27]—on the date of assent to this Act,

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(b) otherwise—

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(i) 1 year after the date of assent to this Act, or

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(ii) on an earlier day, or on earlier days, to be appointed by proclamation.

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<b>Schedule 1</b>	<b>Amendment of Point to Point Transport (Taxis and Hire Vehicles) Act 2016 No 34</b>	1
		2
<b>[1] Section 3 Definitions</b>		3
	Insert in alphabetical order in section 3(1)—	4
	<i>wheelchair accessible taxi</i> means a taxi that has wheelchair access.	5
<b>[2] Section 4 Passenger services</b>		6
	Omit “or any person carrying out work for the provider of a passenger service or booking service, or any authorised officer” from section 4(1), definition of <i>passenger</i> .	7
	Insert instead “, or a person carrying out work for the provider of a passenger service or booking service”.	8
		9
		10
<b>[3] Section 22 Standards for owners and taxi licence holders</b>		11
	Omit the note.	12
<b>[4] Section 30 Applications for authorisation</b>		13
	Insert “, if any,” after “fee” in section 30(3)(d).	14
<b>[5] Section 47 Taxis must be licensed</b>		15
	Omit the note.	16
<b>[6] Section 51 Applications for taxi licences</b>		17
	Insert “, if any,” after “fee” in section 51(3)(c).	18
<b>[7] Section 51(4) and note</b>		19
	Omit the subsection and note.	20
<b>[8] Section 53 Determination of applications for taxi licences</b>		21
	Omit the section.	22
<b>[9] Section 56 Area of operation of taxis</b>		23
	Omit the section.	24
<b>[10] Section 58</b>		25
	Omit the section. Insert instead—	26
	<b>58 Renewal of taxi licences</b>	27
	(1) A taxi licence may be renewed by the Commissioner on application to the Commissioner made before the expiry of the licence.	28
		29
	(2) This Act applies to an application for the renewal of a taxi licence in the same way it applies to an application for a taxi licence.	30
		31
<b>[11] Part 4, Division 4 Taxi licence fees</b>		32
	Omit the Division.	33
<b>[12] Part 4, Division 5 Dealings with taxi licences</b>		34
	Omit the Division.	35

<b>[13] Section 69 Variation, suspension or cancellation of taxi licences generally</b>	1
Insert after section 69(b)—	2
(b1) without limiting paragraph (b), the holder provides a taxi service without being—	3
(i) authorised to provide the service, or	4
(ii) an affiliated provider, or	5
<b>[14] Section 69, note</b>	6
Omit “change area of operation requirements (see section 56) and”.	7
<b>[15] Section 69(2)</b>	8
Insert at the end of the section, after the note—	9
(2) To avoid doubt, the variation, suspension or cancellation of a taxi licence does not prevent the taking of proceedings, or the issuing of a penalty notice, for an offence, or an alleged offence, under this Act.	10
<b>[16] Part 4, Division 7 Determination of release of taxi licences</b>	11
Omit the Division.	12
<b>[17] Section 74 Referrals to IPART</b>	13
Omit “maximum” wherever occurring in section 74(1).	14
<b>[18] Section 75 IPART investigations and recommendations</b>	15
Omit “maximum” from section 75(1).	16
<b>[19] Section 155 Fees, charges and levies</b>	17
Omit section 155(2).	18
<b>[20] Section 157 Compensation not payable</b>	19
Omit section 157(2), definition of <i>operation of this Act</i> . Insert instead—	20
<i>enactment or operation of this Act</i> includes the following—	21
(a) the enactment or operation of an Act, or the making or operation of an instrument, that amends this Act,	22
(b) the operation of an inquiry, notice or order under this Act,	23
(c) the operation of a contract, or another agreement, entered into under or for the purposes of this Act.	24
<b>[21] Schedule 1 Regulation-making powers</b>	25
Omit “or taxi licence” from clause 7(2)(b).	26
<b>[22] Schedule 1, clause 9(2)(f)</b>	27
Insert after clause 9(2)(e)—	28
(f) providing the Commissioner with information about wheelchair accessible vehicles used by providers.	29
<b>[23] Schedule 2 Savings, transitional and other provisions</b>	30
Insert after Part 2—	31
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<b>Part 3</b>	<b>Provisions consequent on enactment of Point to Point Transport (Taxis and Hire Vehicles) Amendment Act 2022</b>	1
		2
		3
<b>19</b>	<b>Definitions</b>	4
	In this Part—	5
	<i>annual taxi licence</i> , <i>ordinary taxi licence</i> and <i>short term taxi licence</i> have the same meaning as in this Schedule, Part 2.	6
	<i>existing licence</i> means—	7
	(a) a taxi licence issued before the start of the transitional period, or	8
	(b) the following licences continued in force under this Schedule, Part 2—	9
	(i) an annual taxi licence,	10
	(ii) an ordinary taxi licence,	11
	(iii) a short term taxi licence.	12
	<i>holder</i> of a nominated licence—	13
	(a) means the person who provides a taxi service under the licence, but	14
	(b) does not include a person who only facilitates the provision of a taxi service under the licence.	15
	<i>nominated licence</i> —see clause 21(1)(a).	16
	<i>transitional period</i> means the period—	17
	(a) starting on the commencement of this Part, and	18
	(b) ending on the commencement of clause 26.	19
<b>20</b>	<b>No further transfers of ordinary taxi licences</b>	20
	Clauses 6 and 7 cease to have effect at the start of the transitional period.	21
<b>21</b>	<b>Applications for taxi licences during transitional period</b>	22
(1)	The Commissioner must not grant an application for a taxi licence made during the transitional period unless—	23
(a)	the applicant nominates an existing licence that is in force (the <i>nominated licence</i> ) to be replaced by the taxi licence, and	24
(b)	the Commissioner is satisfied the applicant was, at the start of the transitional period, the holder of the nominated licence.	25
(2)	On the granting of an application for a taxi licence made during the transitional period—	26
(a)	the nominated licence is cancelled, and	27
(b)	the Commissioner must, within 21 days, give written notice of the cancellation to the person listed as the owner of the nominated licence on the taxi licence register kept by the Commissioner, and	28
(c)	the taxi licence is issued to the applicant subject to a condition that the taxi must, during the transitional period, be used only to provide a taxi service within the area of operation, if any, specified for the nominated licence immediately before its cancellation.	29
(3)	Subclause (2)(c)—	30
(a)	applies despite the repeal of section 56, and	31
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(b)	does not apply to the provision of transport by a taxi that results from a booking, and	1 2
(c)	does not limit the conditions to which the taxi licence may otherwise be subject.	3 4
(4)	This clause does not apply to an application for a taxi licence for a wheelchair accessible taxi.	5 6
<b>22</b>	<b>Application fee not required</b>	7
	An application for a taxi licence made during the transitional period is not required to be accompanied by a fee prescribed under section 51(3)(c).	8 9
<b>23</b>	<b>Return of number-plates not required</b>	10
	Section 130(2) does not apply to the holder of a nominated licence cancelled by clause 21(2)(a) if the number-plates allocated under the nominated licence are allocated under the taxi licence issued to the holder on the granting of the application for a taxi licence made during the transitional period.	11 12 13 14
<b>24</b>	<b>No review of refusals</b>	15
(1)	A decision to refuse, or a failure to grant, an application for a taxi licence made during the transitional period is not a reviewable decision, despite section 145(2)(a).	16 17 18
(2)	This clause does not apply to an application for a taxi licence for a wheelchair accessible taxi.	19 20
<b>25</b>	<b>Outstanding licence fees not payable</b>	21
	A licence fee, or part of a licence fee, payable for an existing licence ceases to be payable on the cancellation of the licence by clause 21(2)(a) or 26.	22 23
<b>[24]</b>	<b>Schedule 2, clause 26</b>	24
	Insert after clause 25, as inserted by Schedule 1[23]—	25
<b>26</b>	<b>Cancellation of existing licences</b>	26
	On the commencement of this clause, each existing licence that is in force is cancelled.	27 28
<b>[25]</b>	<b>Schedule 3</b>	29
	Omit the Schedule. Insert instead—	30
<b>Schedule 3</b>	<b>Further adjustment assistance for taxi industry</b>	31 32
<b>1</b>	<b>Definitions</b>	33
	In this Schedule—	34
	<i>further transitional assistance funds</i> means money for the purposes of payments, in connection with the cancellation of ordinary taxi licences by Schedule 2, clauses 21(2)(a) and 26, to persons who meet the criteria for eligibility established under this Schedule.	35 36 37 38
	<i>ordinary taxi licence</i> means an ordinary taxi licence within the meaning of Schedule 2, Part 2 that is continued in force under Schedule 2, Part 2.	39 40

<b>2 Further transitional assistance funds payments scheme</b>	1
(1) The regulations may make provision about further transitional assistance funds, including the following—	2 3
(a) the persons who are eligible to receive further transitional assistance funds,	4 5
(b) the amount payable, or the method for determining the amount payable, to eligible applicants,	6 7
(c) proof of eligibility,	8
(d) applications for further transitional assistance funds,	9
(e) the period within which applications may be made,	10
(f) the determination of applications for further transitional assistance funds,	11 12
(g) conditions on payment of further transitional assistance funds,	13
(h) the provision of additional information or records by applicants,	14
(i) reviews of decisions about applications,	15
(j) the determination or approval of a matter referred to in paragraphs (a)–(i) by TfNSW.	16 17
(2) To avoid doubt, the regulations may make provision about further transitional assistance funds before the commencement of Schedule 2, clauses 21(2)(a) and 26.	18 19 20
<b>3 Provision of further transitional assistance funds</b>	21
Further transitional assistance funds must be provided—	22
(a) from money appropriated, but not used, for the purpose of providing assistance funds under this Schedule before its substitution by the <i>Point to Point Transport (Taxis and Hire Vehicles) Amendment Act 2022</i> , or	23 24 25
(b) from money otherwise appropriated by Parliament.	26
<b>4 Improper conduct</b>	27
(1) The Minister may determine that a person who engages in improper conduct in relation to an application for, or payment of, further transitional assistance funds is not entitled to be paid further transitional assistance funds.	28 29 30
(2) The Minister may, by written notice, require a person who receives an amount of further transitional assistance funds to repay the amount if the Minister reasonably believes the person has engaged in improper conduct, whether in relation to—	31 32 33 34
(a) that amount, or	35
(b) other further transitional assistance funds paid to the person.	36
(3) An amount of further transitional assistance funds required to be repaid under this clause may be recovered by the Secretary of the Department of Transport in a court of competent jurisdiction as a debt due to the Crown.	37 38 39
(4) In proceedings instituted for the recovery of a debt due to the Crown under this clause, a certificate of the Minister that a specified amount is the amount of the debt is evidence of that fact.	40 41 42
(5) In this clause—	43
<i>improper conduct</i> includes the following—	44

(a)	doing or omitting to do a thing for the purpose of misrepresenting eligibility to receive further transitional assistance funds,	1
		2
(b)	making a statement, or giving information, knowing it is false or misleading in a material particular—	3
		4
(i)	in, or in relation to, an application for further transitional assistance funds, or	5
		6
(ii)	for the purpose of obtaining or keeping further transitional assistance funds,	7
		8
(c)	transferring a taxi-cab licence, or engaging in or facilitating any other transaction involving a licence granted under the <i>Passenger Transport Act 1990</i> , for the purpose of—	9
		10
(i)	altering an entitlement to receive further transitional assistance funds, or	11
		12
(ii)	gaining further transitional assistance funds.	13
		14
<b>5</b>	<b>Repeal of Schedule</b>	15
	This Schedule is repealed on a day appointed by proclamation.	16
<b>[26]</b>	<b>Schedule 4 Passenger service levy</b>	17
	Omit clause 4(1). Insert instead—	18
(1)	The amount of the levy is the following for each passenger service transaction by the provider of a passenger service or booking service that occurred in the assessment period for which the levy is payable—	19
		20
(a)	for a transaction before 1 July 2023—\$1,	21
		22
(b)	for a transaction on or after 1 July 2023—\$1.20.	23
		24
<b>[27]</b>	<b>Schedule 4, clause 14</b>	24
	Omit clause 14(2). Insert instead—	25
(2)	The <i>levy repeal day</i> is—	26
		27
(a)	1 January 2031, or	28
		29
(b)	an earlier day specified by the Minister by order published in the Gazette.	