

Portfolio Committee No. 6 – Transport and Customer Service

Operation of the *Point To Point Transport (Taxis And Hire Vehicles) Act 2016*

Questions On Notice – Hearing 25 September 2020

QUESTION – Employee Relations role in the rideshare / taxi industry

The Hon. DANIEL MOOKHEY: What work has Employee Relations done on chapter 6 and its role in the rideshare or taxi industry?

Mr HEUSTON: Our role is largely one of compliance. We will regularly update and review our materials, educational offerings and advice across the board. We will provide that to people in the industry through things like workshops, webinars, online materials and fact sheets. They are aimed at what the existing arrangements are under chapter 6 rather than something else.

The Hon. DANIEL MOOKHEY: On notice, can you provide us with the set of materials that you just referred to—whatever worksheets are available with respect to the chapter 6 determination for the taxi industry and point to point industry? I am asking specifically whether you have prepared any policy advice as to any changes that might be required to chapter 6 to encompass the emergence of rideshare.

Ms FOY: We have not prepared any information for any advice in that respect. We work largely around the compliance with chapter 6. I am very happy to provide any information but I do note it is also publicly available through industrialrelations.nsw.gov.au.

The Hon. DANIEL MOOKHEY: Sure, but do you mind just putting it on notice so I can put it on the evidence record?

Ms FOY: Of course, naturally. Our role is largely one of compliance. We have a phone number that taxidrivers can phone into to seek either information or assistance. We have had cause over the last couple of years to follow up certain matters with the IRC with respect to some prosecution action taken by the department with compliance matters, but it is a very small proportion. I think there have only been about 13 industrial complaints since 2015. I am very happy to get copies of that information that we provide and have that submitted into the evidence.

ANSWER:

Resource Summary

NSW IR Website

<https://www.industrialrelations.nsw.gov.au/industries/key-industries-in-nsw/taxi/>

The above webpage has been developed exclusively for the Taxi Industry. All the resources listed below are hosted or linked at this 'one-stop shop'. This webpage can be navigated to from the homepage.

Employee Relations also provides the relevant Determinations for the Transport Industry here:

<https://www.industrialrelations.nsw.gov.au/industries/key-industries-in-nsw/transport/>

Taxi Industry e-learning Module (information pack attached)

- An interactive easy to follow guide, that provides a simple easy to follow overview of the Taxi Industry (Contract Drivers) Contract Determination, 1984.
- The online learning module takes between 10-15 minutes to complete and provides industry operators/drivers/stakeholders with an interactive online learning experience to better understand the Determination.
- Published on www.industrialrelations.nsw.gov.au

Fact Sheet for Taxi Drivers (copy attached)

Portfolio Committee No. 6 – Transport and Customer Service

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- A downloadable fact sheet that explains the Taxi Industry (Contract Determination), 1984 in a simple, easy to follow format, using plain English.

Fact Sheet for Owner Operators (copy attached)

- A downloadable fact sheet that explains the Taxi Industry (Contract Determination), 1984 in a simple, easy to follow format, using plain English.

NOTE: The digital format of above resources enhances accessibility as customers are able to use Google Translate to easily convert the advice to other community languages.

Taxi Industry Recorded Webinar (information pack attached)

In April 2020 Employee Relations recorded a webinar exclusively for the Taxi Industry. The webinar runs for 49 minutes and provides a detailed, but plain English overview of the Taxi Industry (Contract Determination), in particular, the different types of payment methods, record keeping requirements and leave entitlements in an easy to follow format. This is published on the Employee Relations website.

Recorded Webinar – Chapter 6 (Transport Industry – Contracts of Carriage and Bailment) – (information pack attached)

In October 2020 Employee Relations recorded a webinar to assist the Transport Industry better understand their requirements under Chapter 6. This is published on the Employee Relations website.

QUESTION – Employee Relations educational and advisory services

Mr HEUSTON: If I might just qualify one point, some of the educational and advisory services that we offer are not readily printable. It will include things like e-learning modules and video.

The Hon. DANIEL MOOKHEY: Perhaps on notice you can provide a description of what it is that you do, at whatever level you can provide.

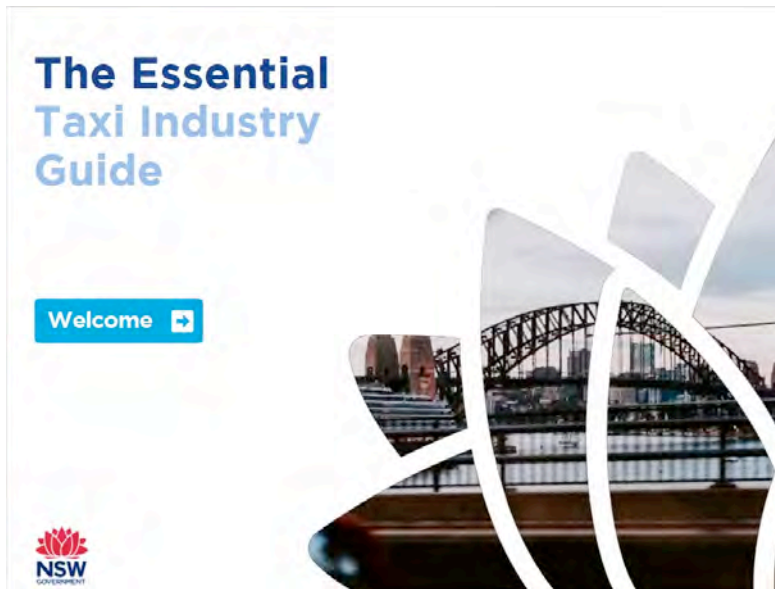
ANSWER:

Please see advice provided to previous question.

taxi industryv3_2062020

1. Welcome/Menu

1.1 Home



Notes:

1.2 Innovations In Licensing

NSW Employee Relations and Our Role in the Taxi Industry



- We understand it is complex to navigate the Taxi Industry (Contract Drivers) Contract Determination 1984.
- Employee Relations may be able to assist you. This guide will help you understand your obligations when you are driving or operating a taxi in the Sydney metropolitan transport district area.

You should first check if this taxi guide applies to you by understanding the Sydney metropolitan transport district. Click on the button below to find out more.

Does this Taxi guide apply to you?


 This online module will take you 10-15 to complete



[Previous](#) [Next](#)

1.3 Reserve Funding

What is the Sydney Metropolitan Transport District Area?




Metropolitan Areas	Is your location included?
City of Sydney includes: >	View More
Northern and Southern includes: >	View More
Eastern and Western includes: >	View More

[Previous](#) [Next](#)

new1 (Slide Layer)

What is the Sydney Metropolitan Transport District Area?



Metropolitan Areas

City of Sydney includes:

Northern and Southern includes:

Eastern and Western includes:

Is your location included?

Baulkham Hills Shire, Castlereagh, Dundas, Eastwood, Ermington & Rydalmere, Hunters Hill, Hornsby Shire and Ku-ring-gai.


View More

View More

Previous Next

new2 (Slide Layer)

What is the Sydney Metropolitan Transport District Area?



Metropolitan Areas

City of Sydney includes:

Northern and Southern includes:

Eastern and Western includes:

Is your location included?

View More


Northern: Lane Cove, Manly, Mosman, North Sydney, Richmond, Ryde, Warringah Shire, Willoughby, Windsor, Bankstown, Bexley, Cabramatta and Canley Vale, Canterbury, Camden, Campbelltown, Darlington, Enfield and Erskineville.
Southern: Fairfield, Hurstville, Ingleburn, Kogarah, Liverpool, Marrickville, Nepean Shire, Newtown, Rockdale, St. Peters, Sutherland and Wollondilly Shire.

View More

Previous Next

new3 (Slide Layer)

What is the Sydney Metropolitan Transport District Area?



Metropolitan Areas

City of Sydney includes:

Northern and Southern includes:

Eastern and Western includes:

Is your location included?

View More

View More

Eastern: Alexandria, Botany, Mascot, Paddington, Randwick, Redfern, Vaucluse, Waterloo, Waverley and Woollahra.
Western: Annandale, Ashfield, Auburn, Balmain, Blacktown Shire, Burwood, Concord, Drummoyne, Glebe, Granville, Holroyd, Homebush, Leichardt, Lidcombe, Parramatta, Penrith, Petersham, Strathfield and St.Mary's.

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2. Section 1

2.1 What is Crown Land?

Where do you fit in the taxi industry?



It's important to know where you fit in the taxi industry as this determines your role and responsibilities for your contract and entitlements. Please read the following descriptions to determine where you fit in the industry.

Licence owners

Learn More >



Taxi companies and cooperatives

Learn More >



Operators

Learn More >



Networks

Learn More >



Drivers

Learn More >



Passengers

Learn More >



Previous Next

Object A (Slide Layer)

Where do you fit in the taxi industry?

It's important to know where you fit in the taxi industry as this determines your role and responsibilities for your contract and entitlements. Please read the following descriptions to determine where you fit in the industry.

L Licence owner [X]

Owner drivers or lease their plates to taxi companies or individual operators.

Learn More [icon] Learn More [icon] Learn More [icon]

Previous Next

Object B (Slide Layer)

Where do you fit in the taxi industry?

It's important to know where you fit in the taxi industry as this determines your role and responsibilities for your contract and entitlements. Please read the following descriptions to determine where you fit in the industry.

L Taxi companies and cooperatives [X]

Who sell bundled services such as insurance repairs to operators, but who may also manage licence plates and operate taxi businesses.

Learn More [icon] Learn More [icon] Learn More [icon]

Previous Next

Object C (Slide Layer)

Where do you fit in the taxi industry?

It's important to know where you fit in the taxi industry as this determines your role and responsibilities for your contract and entitlements. Please read the following descriptions to determine where you fit in the industry.

Operators

Are owner-drivers, individuals leasing a plate and operating a vehicle, or companies that manage multiple license, vehicles and drivers.

Learn More →

Previous Next

Object D (Slide Layer)

Where do you fit in the taxi industry?

It's important to know where you fit in the taxi industry as this determines your role and responsibilities for your contract and entitlements. Please read the following descriptions to determine where you fit in the industry.

Networks

Are taxi companies that also provide phone booking, dispatch and safety services to their members and to other taxi companies.

Learn More →

Previous Next

Object E (Slide Layer)

Where do you fit in the taxi industry?

It's important to know where you fit in the taxi industry as this determines your role and responsibilities for your contract and entitlements. Please read the following descriptions to determine where you fit in the industry.

Drivers [X]

Who either drive their own vehicle as an operator, or contract their services to operators (termed 'bailee drivers').

Learn More [icon] Learn More [icon] Learn More [icon]

Previous Next

Object F (Slide Layer)

Where do you fit in the taxi industry?

It's important to know where you fit in the taxi industry as this determines your role and responsibilities for your contract and entitlements. Please read the following descriptions to determine where you fit in the industry.

Passengers [X]

Who purchase transport services from drivers.

Learn More [icon] Learn More [icon] Learn More [icon]

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2.2 Innovations In Licensing

What does Point to Point legislation mean?

The Point to Point legislation regulates the industry for both taxis and hire cars.

The Point to Point Transport Commission is designed to make it easy for the taxi, hire vehicle, ridesharing, and similar services to comply with the law and run their businesses in NSW.

The Point to Point Transport Commission also works in partnership with other agencies to ensure the safety of the point to point industry, including Roads and Maritime Services (RMS), the State Insurance Regulatory Authority and NSW Police.

The Point to Point Transport Commission assists Taxi and Booking Services

Taxi and hire cars in NSW are covered by:

- Point to Point Transport (Taxis/Hire vehicle) Act 2016, and
- Point to Point (Taxis/Hire vehicle) Regulation 2017. To discuss the legislation in detail you can contact Point to Point Industry Portal.

Who else does Point to Point legislation cover?




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2.3 Why A New Act?


Double check your authority to drive

Under the Point to Point legislation you must ensure that you have the authority to drive. Select which one is relevant to you to understand what you need.



If you are a driver

[View](#)



If you are an owner

[View](#)

[Previous](#) [Next](#)

Permanent (Slide Layer)

Double check your authority to drive

Under the Point to Point legislation you must ensure that you have the authority to drive.
Select which one is relevant to you to understand what you need.

TAXI LICENCE CODE

The Point to Point legislation changed the licensing requirements to drive a taxi/hire car.

Driver Qualifications or Authority to drive a taxi

Taxi and Hire Car drivers are required to hold a Passenger Transport Licence Code on an unrestricted Australian Licence.

Your driver identification document must be visibly on display to any passenger in the taxi.

Previous Next

Casual (Slide Layer)

Double check your authority to drive

Under the Point to Point legislation you must ensure that you have the authority to drive.
Select which one is relevant to you to understand what you need.

TAXI PROVIDER LICENCE CODE

The Licence Code provides for safety standards that are the responsibility of the Taxi provider (owner/operator) to ensure:


- that drivers pass a criminal threshold;
- medical fitness to drive; and
- have an unrestricted driving licence for at least 12 months in the last 2 years and pass English testing.

Previous Next

2.4 Q2

(Multiple Choice, 10 points, unlimited attempts permitted)

Question – Check your knowledge



?

I have been offered a job to drive a taxi, is my drivers licence ok to use?

☒ Yes

☐ No


Submit

Previous Page

Correct	Choice
X	Yes
	No

Incorrect (Slide Layer)

Question – Check your knowledge



?

I have been offered a job to drive a taxi, is my drivers licence ok to use?

☒ Yes

☐ No

Submit


Incorrect. Please try again

Try Again

Previous Page

Invalid (Slide Layer)

Question – Check your knowledge



?

I have been offered a job to drive a taxi, is my drivers licence ok to use?

☒ Yes

☐ No

Submit


Invalid. Select before submit

Continue

Previous Page

Try Again (Slide Layer)

Question – Check your knowledge



?

I have been offered a job to drive a taxi, is my drivers licence ok to use?

☒ Yes

☐ No

Submit


Incorrect. Please try again


Try again

Previous Page

Correct (Slide Layer)

Question – Check your knowledge



 I have been offered a job to drive a taxi, is my drivers licence ok to use?

☒ Yes

☐ No

Submit

That's correct. You will also need to have a Passenger Transport Licence Code on your unrestricted Australian Licence.

Correct **Continue**

[Previous Page](#)

2.5 New Processes For Ensuring Compliance

Regulatory responsibility



Regulatory responsibility of taxi cabs sits within the NSW Industrial Relations System and Chapter 6 of the Industrial Relations Act 1996 (The Act).

The NSW Industrial Relations Commission determines the terms of engagement between a driver and owner/operator by way of Chapter 6 of The Act.

Chapter 6 of The Act is a unique provision for groups of workers who would not normally be regarded at common law as employees but could be 'deemed' to be employees.

Please note: Taxis are not covered by the National Workplace Relations System under the Fair Work Act 2009.



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2.6 Rent Determination

The screenshot shows the 'Understanding bailment' module interface. At the top right is the NSW Government logo. Below the title, it says 'Select each button to reveal further information.' A horizontal timeline with four circular markers is displayed. The first marker is highlighted in orange and corresponds to the question 'How does Contract Bailment fit into the context of regulatory responsibility?'. The other three markers are grey and correspond to 'What is a Contract of Bailment?', 'Who is a Bailor?', and 'Who is a Bailee?'. At the bottom right, there are 'Previous' and 'Next' navigation buttons.

Option3 (Slide Layer)

This screenshot shows the 'Understanding bailment' module with the 'Who is a Bailor?' slide selected. The slide content includes: 'Bailor is the owner/operator of the taxi.' and 'Important information - Do you know the NSW Industrial Relation Commission has the power through the NSW Industrial Relations Act 1996 to create a Contract Determination for a Contract of Bailment?'. A green 'Continue' button is located at the bottom right of the slide area. The navigation buttons at the bottom of the interface are 'Previous' and 'Next'.

Option2 (Slide Layer)

Understanding bailment

Select each button to reveal further information.

How does Contract Bailment fit into the context of regulatory responsibility?

What is a Contract of Bailment?

Who is a Bailor?

Who is a Bailee?

What is a Contract of Bailment?

A contract of bailment is an agreement between a taxi owner/operator (Bailor) and a driver (Bailee) to take the taxi on behalf of the owner/operator (Bailor) for a shift to seek and carry fee paying passengers and their luggage.

The driver is using the taxi for a shift as a business to earn an income.

Continue

Previous Next

Option1 (Slide Layer)

Understanding bailment

Select each button to reveal further information.

How does Contract Bailment fit into the context of regulatory responsibility?

What is a Contract of Bailment?

Who is a Bailor?

Who is a Bailee?

How does Contract Bailment fit into the context of regulatory responsibility?

Bailment describes the relationship between the owner/operator and the driver to use the taxi. It is like hiring or renting or leasing but the term Bailment is not really the same. It has different application due to the relationship and responsibilities it establishes between the owner/operator and the driver.

The driver is using the taxi as a business to earn an income.

Continue

Previous Next

Option4 (Slide Layer)

Understanding bailment

Select each button to reveal further information.

How does Contract Bailment fit into the context of regulatory responsibility?

What is a Contract of Bailment?

Who is a Bailor?

Who is a Bailee?

Who is a Bailee?

Bailee is a Driver who takes a taxi on behalf of the owner/operator for a shift as a permanent or casual driver.

Important information - Do you know the NSW Industrial Relation Commission has the power through the NSW Industrial Relations Act 1996 to create a Contract Determination for a Contract of Bailment?

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2.7 Consistent Tenures

What does a shift mean?

Day Shift

Day shift means a shift where the taxi is available for use for 9 hours but not exceeding 12 hours and at least 75 % of hours are between 3am and 3pm.

Night Shift

Night shift means a shift where the taxi is made available for use for 9 hours but not exceeding 12 hours and at least 75 % of hours are between 3pm and 3am.

How long is a Shift?

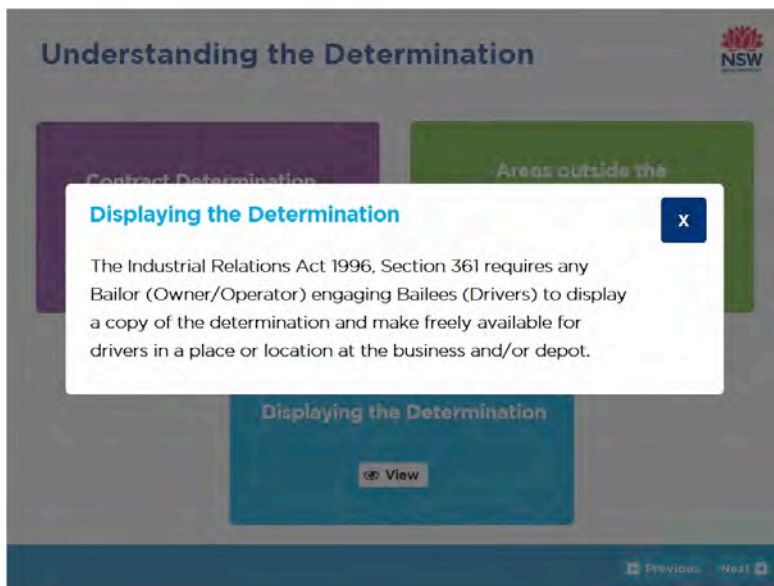
Shift means the taxi is available for use as agreed between the driver and the owner/operator for at least 9 hours.

Previous Next

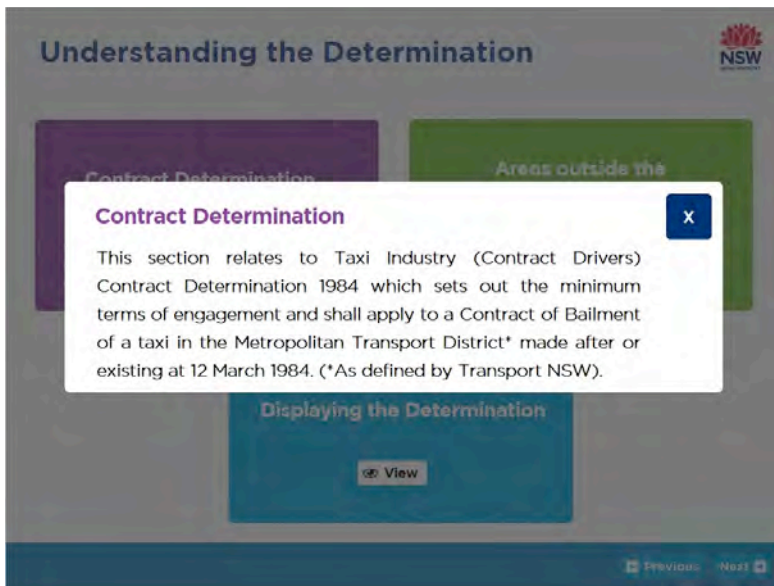
2.8 Consistent Tenures



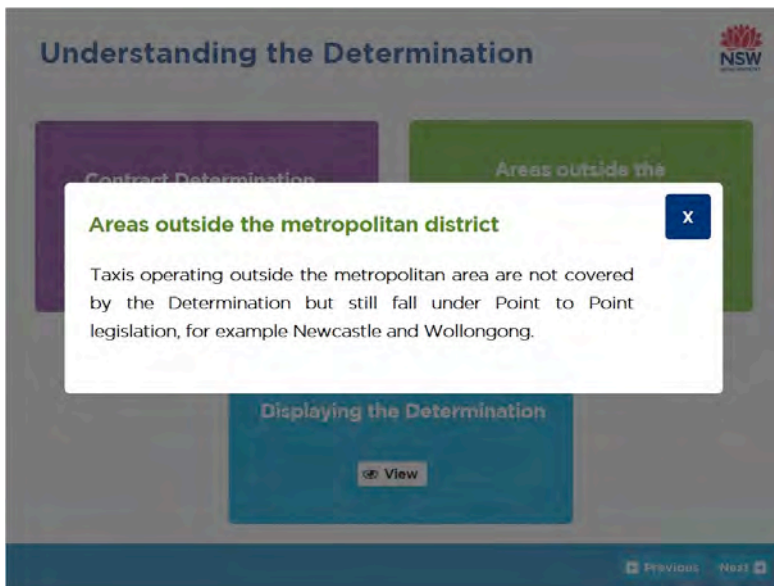
Display (Slide Layer)



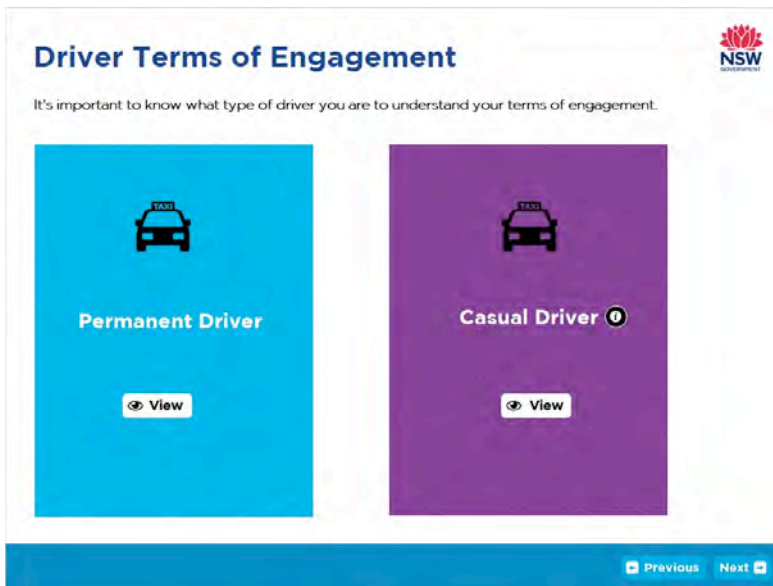
Contract (Slide Layer)



Area (Slide Layer)



2.9 Why A New Act?



Permanent (Slide Layer)



Casual (Slide Layer)

Driver Terms of Engagement

It's important to know what type of driver you are to understand your terms of engagement.

A casual driver is:

- Not entitled to any paid leave such as annual, sick or long service leave
- Termination of engagement can be at any time without notice

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2.10 Changes To The Process For Purchasing Crown Leasehold Land

Methods of payment


It is important to understand the correct method of payment to ensure you receive the correct income.

Know the rules Method I - Commission Method II - Set Pay-In

Previous Next

CE1 (Slide Layer)

Methods of payment



It is important to understand the correct method of payment to ensure you receive the correct income.

[Know the rules](#)[Method I - Commission](#)[Method II - Set Pay-In](#)

Know the rules

An owner/operator shall give the driver an Election Form to decide the method of payment.

A driver commencing a new contract of bailment has the right to elect the method of payment after engagement by the owner/operator:

- before commencing the first shift; and
- again within 90 days from the date of the first bailment with the owner/operator


The driver shall complete and sign the election form and return it to the owner/operator, who shall give the driver a receipted copy.

A driver has the right to elect the method of payment freely, voluntarily and without pressure of any kind.

[Previous](#)[Next](#)

CE2 (Slide Layer)

Methods of payment



It is important to understand the correct method of payment to ensure you receive the correct income.

[Know the rules](#)[Method I - Commission](#)[Method II - Set Pay-In](#)

Method I - Commission

For this choice, you are a driver who is entitled to receive and retain from the chargeable fares, the amount of the driver's percentage.

A First-Year permanent driver shall be 45% of all chargeable fares taken, including GST.

A Casual or Second and Subsequent Year permanent driver shall be 50% of all chargeable fares taken including GST.

Note: The casual driver's percentage includes compensation for not having sick or annual leave entitlements.

A driver can retain tips and the operator pays for all fuel and car wash.

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CE4 (Slide Layer)

Methods of payment

It is important to understand the correct method of payment to ensure you receive the correct income.

[Know the rules](#)[Method I - Commission](#)[Method II - Set Pay-In](#)

Method II - Set Pay-In

For this choice, you are a driver who is entitled to receive and retain from the chargeable fares from fee paying passengers. The balance left after deducting a specified amount to be paid to the owner/operator as set out in the Determination.

An owner/operator and a driver may agree on lesser Pay-in amounts than those specified. Therefore, the agreement will not operate to relieve the owner/operator of the obligation to comply with any requirement of the determination, such as, annual leave, sick leave or long service leave.

The driver shall at the conclusion of each shift pay to the owner/operator that part of the chargeable fares which the driver is not entitled to receive and retain.

The owner/operator shall give to the driver a dated and signed receipt for each such payment, no later than the first occasion the driver attends for work in normal business hours after the payment has been made.

The driver shall pay for fuel and car wash.

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2.11 Q3a

(Multiple Choice, 10 points, unlimited attempts permitted)

Question - Check your knowledge

Mustafa is a permanent driver and has elected Set Pay-in Method II. The owner/operator offered to accept a lesser pay-in than the maximum amount, but Mustafa would not be getting any annual, sick or other leave provided for under the determination.

Select from the following:

☐ Yes, this is ok

☒ No, this is illegal, and a breach of the determination.

[Submit](#)

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Correct	Choice
Yes, this is ok	

X

No, this is illegal, and a breach of the determination.

Correct (Slide Layer)

Question - Check your knowledge



Mustafa is a permanent driver and has elected Set Pay-in Method II. The owner/operator offered to accept a lesser pay-in than the maximum amount, but Mustafa would not be getting any annual, sick or other leave provided for under the determination.

Select from the following:

☐ Yes, this is ok

☒ No, this is illegal, and a breach of the determination.

Submit

Mustafa would still be entitled to leave although paying less than the maximum pay in amount.


Correct

Continue

[Previous Page](#)

Incorrect (Slide Layer)

Question - Check your knowledge



Mustafa is a permanent driver and has elected Set Pay-in Method II. The owner/operator offered to accept a lesser pay-in than the maximum amount, but Mustafa would not be getting any annual, sick or other leave provided for under the determination.

Select from the following:

☐ Yes, this is ok

☒ No, this is illegal, and a breach of the determination.

Submit


Incorrect. Please try again

Try Again

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Invalid (Slide Layer)

Question – Check your knowledge



Mustafa is a permanent driver and has elected Set Pay-in Method II. The owner/operator offered to accept a lesser pay-in than the maximum amount, but Mustafa would not be getting any annual, sick or other leave provided for under the determination.

Select from the following:

☐ Yes, this is ok


☒ No, this is illegal, and a breach of the determination.

[Submit](#) **Invalid. Select before submit** [Continue](#)

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Try Again (Slide Layer)

Question – Check your knowledge



Mustafa is a permanent driver and has elected Set Pay-in Method II. The owner/operator offered to accept a lesser pay-in than the maximum amount, but Mustafa would not be getting any annual, sick or other leave provided for under the determination.

Select from the following:

☐ Yes, this is ok

☒ No, this is illegal, and a breach of the determination.


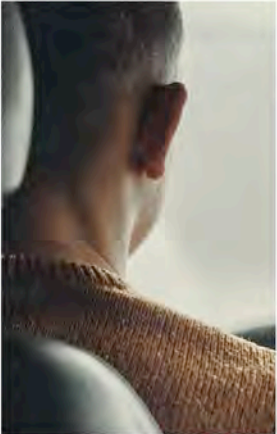
[Submit](#) **Incorrect. Please try again** [Try again](#)

[Previous Page](#)

2.12 Innovations In Licensing

Daily vehicle maintenance

By deciding how you'll be paid affects who is responsible for the daily maintenance of the vehicle. Please review the below to see who is responsible for maintenance expenses.



1

Method I - The owner/operator must do the following

0

2

Method II - The owner/operator must do the following


0

[Previous](#) [Next](#)

2.13 Reserve Management

Understanding your leave entitlements

The following leave entitlements are for permanent drivers only.



1

Annual Leave

[View](#)

2

Sick Leave

[View](#)

3

Long Service Leave

[View](#)

[Previous](#) [Next](#)

RM1 (Slide Layer)

Understanding your leave entitlements

The following leave entitlements are for permanent drivers only

Annual Leave

- A permanent driver for a period of 12 months who has completed a minimum of 230 shifts or 220-night shifts from the one owner/operator shall be;
- entitled to 5 weeks' annual leave, exclusive of any public holidays occurring during that period as follows.

Method I

- Payment in total for such annual leave shall be equal to 5/47 of the driver's total entitlement from the chargeable fares during those 12 months.

Method II

- Shall be entitled to 5 weeks' annual leave, exclusive of any public holidays occurring during that period. Check your annual leave rate in Table 2 of the Determination.
- Pro-rata Annual Leave payment for 3 months or more but less than 12 months service.

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RM2 (Slide Layer)

Understanding your leave entitlements

The following leave entitlements are for permanent drivers only

Sick Leave

- A permanent driver shall be entitled to 5 days' sick leave during the first year of driving.
- Pro-rata sick leave available after the completion of 55 shifts in a three-month period.
- During the second and subsequent years, a permanent driver shall be entitled to 8 days' sick leave. Check your sick leave rate in Table 2 of the Determination.
- The rights and entitlements to sick leave under this clause shall accumulate.

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RM3 (Slide Layer)

The following leave entitlements are for permanent drivers only

Long Service Leave

- Permanent drivers, who have served continuously with 1 owner/operator for a period of not less than 5 years, shall be entitled to long service leave by reference to the Long Service Leave Act 1955.
- The calculation of the rate per week of such leave shall be equivalent to the rate per week provided in Annual Leave. The rights and entitlements to sick leave shall accumulate.

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2.14 Q3b

(Multiple Choice, 10 points, unlimited attempts permitted)

Question - Check your knowledge

Ahmed has been driving a taxi on nights shift. How many nights shifts does he need to complete in a 12-month period to be entitled to 5 weeks annual leave?

☐ 188

☒ 220


Submit

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Correct	Choice
	188

Correct (Slide Layer)

Question - Check your knowledge



?

Ahmed has been driving a taxi on nights shift. How many nights shifts does he need to complete in a 12-month period to be entitled to 5 weeks annual leave?

☐ 188

☒ 220

Submit

That's correct. Well done!


Correct

Continue

Previous Page

Incorrect (Slide Layer)

Question - Check your knowledge



?

Ahmed has been driving a taxi on nights shift. How many nights shifts does he need to complete in a 12-month period to be entitled to 5 weeks annual leave?

☐ 188

☒ 220

Submit


Incorrect. Please try again

Try Again

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Invalid (Slide Layer)

Question - Check your knowledge



?

Ahmed has been driving a taxi on nights shift. How many nights shifts does he need to complete in a 12-month period to be entitled to 5 weeks annual leave?

☐ 188

☒ 220

Submit


Invalid. Select before submit

Continue

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Try Again (Slide Layer)

Question - Check your knowledge



?

Ahmed has been driving a taxi on nights shift. How many nights shifts does he need to complete in a 12-month period to be entitled to 5 weeks annual leave?

☐ 188

☒ 220

Submit

Incorrect. Please try again

Try again

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2.15 When Does It Start?

Tips to stay on top of the paperwork

How to invoice - information for owner/drivers only.




1. Record the name of their legal entity and the ABN by no later than the commencement of each shift.
2. Send a tax invoice which complies with the GST legislation by no later than 14 days after the completion of each shift.

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2.16 When Does It Start?

Tips to stay on top of the paperwork


How to invoice - information for owner/drivers only.



1. Set aside your tax invoices, which may include more than one shift.
2. Gather up records relating to the calculation and payment of annual leave, sick leave, long service leave and down time entitlements of drivers.
3. Sort and maintain your copies and retain for six years.
4. Keep records relating to the calculation and payment of annual leave, sick leave, long service leave and down time entitlements of drivers.
5. Maintain Schedule I election forms (method of payment) and Schedule II Driver Logbook forms.
6. Record payment receipts from driver to owner/operator.

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2.17 Section 6: Further information



Further Information

Thank you for completing the Essential Taxi Industry Guide.

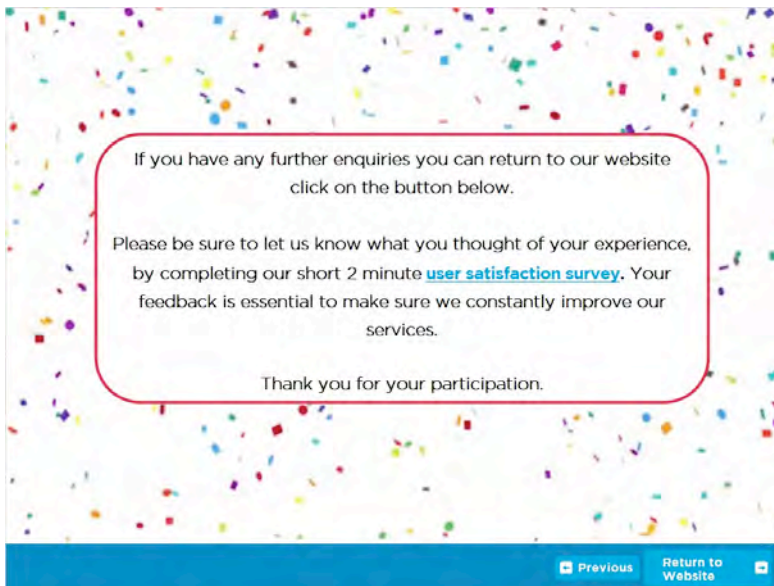
For further information on the topics discussed, please visit:

- NSW Industrial Relations – 131 628
- Point to Point Transport Commission – 131 727
- Roads and Maritime – 13 22 13
- Transport for NSW – 131 500
- SafeWork NSW – 131 050
- Anti Discrimination Board of NSW – (02) 9268 5544

NSW GOVERNMENT

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2.18 Untitled Slide



If you have any further enquiries you can return to our website click on the button below.

Please be sure to let us know what you thought of your experience, by completing our short 2 minute [user satisfaction survey](#). Your feedback is essential to make sure we constantly improve our services.


Thank you for your participation.

Previous Return to Website

2.19 Q2

(Multiple Choice, 10 points, unlimited attempts permitted)

Question – Check your knowledge



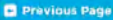
?

Mohamed has just started driving a taxi out of Mascot Airport on Friday and Saturday nights. What type of driver is Mohamed?

☐ Permanent Driver

☒ Casual Driver


Submit



Correct	Choice
	Permanent Driver
X	Casual Driver

Correct (Slide Layer)

Question - Check your knowledge



?

Mohamed has just started driving a taxi out of Mascot Airport on Friday and Saturday nights. What type of driver is Mohamed?

☐ Permanent Driver

☒ Casual Driver

Submit

That's correct. Mohamed doesn't meet the minimum requirements to be a permanent driver.


Correct

Continue

Previous Page

Incorrect (Slide Layer)

Question - Check your knowledge



?

Mohamed has just started driving a taxi out of Mascot Airport on Friday and Saturday nights. What type of driver is Mohamed?

☐ Permanent Driver

☒ Casual Driver

Submit


Incorrect. Please try again

Try Again

Previous Page

Invalid (Slide Layer)

Question - Check your knowledge



? Mohamed has just started driving a taxi out of Mascot Airport on Friday and Saturday nights. What type of driver is Mohamed?

☐ Permanent Driver


☒ Casual Driver

[Submit](#) **Invalid. Select before submit** [Continue](#)

[Previous Page](#)

Try Again (Slide Layer)

Question - Check your knowledge



? Mohamed has just started driving a taxi out of Mascot Airport on Friday and Saturday nights. What type of driver is Mohamed?

☐ Permanent Driver

☒ Casual Driver

[Submit](#) **Incorrect. Please try again** [Try again](#)

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Taxi Industry/Chapter 6

Resource Summary

Taxi Industry Elearning Module

- This is the PDF version of our online eLearning Module, available always for Drivers and Operators in the Taxi Industry via www.industrialrelations.nsw.gov.au
- An interactive easy to follow guide, that provides a simple easy to follow overview of the Taxi Industry (Contract Drivers) Contract Determination, 1984.
- This online learning module takes between 10-15 minutes to complete and provides users with an interactive online learning experience to better understand the Determination

Fact Sheet for Taxi Driver

- A downloadable fact sheet that explains the Taxi Industry (Contract Determination), 1984 in a simple, easy to follow format, using plain English. Available in PDF via NSW IR website.

Fact Sheet for Owner Operators

- A downloadable fact sheet that explains the Taxi Industry (Contract Determination), 1984 in a simple, easy to follow format, using plain English. Available in PDF via NSW IR website.

Online format of above allows users to use Google Translate to obtain information in other languages

Taxi Industry Recorded Webinar

In April 2020 we recorded a webinar exclusively for the Taxi Industry. This webinar runs for 49 minutes and provides a detailed overview of the Taxi Industry (Contract Determination), 1984. Workplace Adviser, David Madden, uses a PowerPoint presentation to detail the different types of payment methods, record keeping requirements and information re leave entitlements. Detailed but explained in plain English in an easy to follow format.

Recorded Webinar – Chapter 6 (Transport Industry – Contracts of Carriage and Bailment)

In October 2020 we recorded a webinar to assist the Transport Industry better understand their requirements under Chapter 6. Workplace Adviser David Madden uses a PowerPoint presentation to details obligations relating to Chapter 6.

NSW IR Website

<https://www.industrialrelations.nsw.gov.au/industries/key-industries-in-nsw/taxi/>

The above Webpage is an exclusive webpage for the Taxi Industry. All above resources are held or linked to the above webpage. This webpage can be accessed via the NSW IR main webpage.

We also provide the relevant Determinations for the Transport Industry here

<https://www.industrialrelations.nsw.gov.au/industries/key-industries-in-nsw/transport/>



A Guide for Taxi Drivers

This guide helps to provide a brief overview of the important provisions of the Taxi Industry (Contract Drivers) Contract Determination 1984, which applies to Drivers in the Taxi Industry within the Greater Metropolitan Transport District (as defined in section 108 of the Transport Administration Act 1988 (NSW)).

What is the Taxi Industry (Contract Drivers) Contract Determination 1984?

It provides for minimum terms and conditions of engagement between a driver of a taxi cab and a taxi owner/operator.

Any taxi owner/operator engaging taxi drivers must display a copy of the Taxi Industry (Contract Drivers) Determination 1984 in a clearly visible location at their place of business and/or depot.

Where in NSW does the Determination apply?

It applies when you drive a taxi cab in the Greater Metropolitan Transport District. Different provisions apply to driving taxi cabs in country and regional areas. **The provisions of the Determination can not be changed by private agreement.**

What is a bailee?

A bailee is a driver who holds a current NSW Taxi Driver Authority and takes a taxi cab on bailment from a taxi owner/operator, known as a bailor. Taking a taxi cab on bailment means an agreement to drive the taxi cab under the conditions of the Contract Determination. A driver can be permanent or casual.

Taxi Licence Code

The Point to Point legislation changed the licensing requirements to drive a taxi/hire car.

Driver qualifications to drive a taxi

Taxi and hire car drivers are required to hold a Passenger Transport Licence Code on an unrestricted Australian Licence.

Taxi provider Licence Code responsibilities

The Licence Code provides for safety standards that are the responsibility of the taxi provider (owner/operator) to ensure that drivers:

- Pass criminal checks;
- Are medically fit to drive;
- Have an unrestricted driving licence for at least 12 months in the last 2 years; and
- Pass English testing.

How do I know if I'm a permanent driver?

A permanent driver is someone who regularly takes a taxi on bailment in the following circumstances:

- 5 shifts per week; or
- At least 220 night shifts per year.

A casual driver is someone who is not permanent and is not entitled to any leave.

What payment am I entitled to as a driver?

A driver can be paid by a set percentage as a commission, or can be paid a set pay-in from the takings to the taxi owner/operator and keep the balance remaining from chargeable fares.

Does a driver have to provide their own uniform?

If the driver is required to wear a distinctive style of dress or uniform, the taxi owner/operator must provide and launder it free of cost to the driver.



Who chooses the payment method?

The driver chooses the payment method, which can either be commission or a set pay-in. The driver confirms the payment method chosen and signs the **Payment Election Form**, which is given to the taxi owner/operator. A driver should not be pressured or victimised by the taxi owner/operator when exercising their right to choose the payment method.

Do I get a receipt when I make a payment to the owner?

Yes, you must be given a signed and dated receipt for each payment you make within 14 days of the completion of the shift.

The taxi owner/operator must also provide you with an invoice that is a **GST Compliant Tax Invoice** no later than 14 days after the completion of each shift.

The invoice can include more than one shift and must include the taxi owner/operator's name, ABN, the driver's name, pay-in rate and total paid to the driver.

Is the taxi owner/operator required to keep records?

Yes, the taxi owner/operator must keep records for 6 years. These records include:

- Payment Election Forms;
- Driver log book forms;
- Copies of all invoices and receipts issued to the driver;
- Payments made by the taxi owner/operator for annual leave, sick leave and long service leave;
- Any monies deducted by the taxi owner/operator or any bonds paid by the driver to the taxi owner/operator.

How is a driver terminated?

A permanent driver must be given one week's notice or payment in lieu of notice. No notice is required for a casual driver.

Am I entitled to annual leave?

Yes – if you are a permanent driver, then you are entitled to annual holidays on the completion of at least 220 night shifts or 230 day shifts within a 12 month period or on termination of the engagement. The annual leave payment is determined by the payment method chosen either Method I - Commission or Method II - Set Pay In.

Am I entitled to sick leave?

Yes – if you are a permanent driver, then you are entitled to 5 days sick leave in the first year of the engagement. Pro-rata sick leave is available on the completion of 55 shifts in the first year of engagement.

A driver will be entitled to 8 days sick leave for each second and subsequent year of being a permanent driver. Payment for sick leave is determined by the payment method the driver elected. Any untaken sick leave accumulates.

Am I entitled to long service leave?

Yes, you may be entitled to long service leave if you have worked for the same taxi owner/operator continuously as a permanent driver for 5 years or more.

Can the taxi owner/operator refuse to pay my leave entitlements such as annual, sick or other leave because we agree to lower pay-ins?

No, failure to comply with the Determination is a breach of the Industrial Relations Act 1996. A breach can result in a civil penalty of up to \$10,000 being imposed on a taxi owner/operator.

Would you like more information?

www.industrialrelations.nsw.gov.au

www.pointtopoint.nsw.gov.au

www.rms.nsw.gov.au

A Guide for Taxi Owner & Operators

This guide helps taxi owner/operators, known as bailors, in the taxi industry within the Greater Metropolitan Transport District learn about important obligations under the Taxi Industry (Contract Drivers) Contract Determination 1984.

Who does the Determination apply to?

It applies to a contract of bailment of a taxi cab in the Greater Metropolitan Transport District as defined. (as defined in section 108 of the Transport Administration Act 1988 (NSW)).

A copy of the Determination must be made available for drivers. Taxi owner/operators are required to display a copy of the Determination in a clearly visible place which is available to the driver.

The provisions of the Determination cannot be changed by private agreement.

What happens if there is failure to comply with the Determination?

Penalties may apply. Failure to comply with the Determination is a breach of the Industrial Relations Act 1996 and can result in a civil penalty of up to \$10,000 being imposed on a taxi owner/operator.

What are the types of engagement?

Permanent: a driver who regularly takes a taxi cab on bailment from the same taxi owner/operator for:

- 5 shifts per week; or
- At least 220 night shifts per year.

Casual: a driver who is not permanent and is not entitled to any leave.

A shift means the usage of a taxi cab by a driver for a period of at least 9 hours, as agreed between you and the driver.

A day shift means a shift of at least 9 hours but no more than 12 hours, where at least 75% of those hours are between 3am and 3pm.



A night shift means a shift of at least 9 hours but not more than 12 hours, where at least 75% of those hours are between 3pm and 3am.

Taxi Licence Code

The Point to Point legislation changed the licensing requirements to drive a taxi/hire car.

Driver qualifications to drive a taxi

Taxi and hire car drivers are required to hold a Passenger Transport Licence Code on an unrestricted Australian licence.

Taxi provider Licence Code responsibilities

The Licence Code provides for safety standards that are the responsibility of the taxi owner/operator to ensure that drivers:

- Pass criminal checks;
- Are medically fit to drive;
- Have an unrestricted driving licence for at least 12 months in the last 2 years; and
- Pass English testing.

What are the payment methods?

There are 2 methods of payment, as set out in Schedule 1 of the Determination. They are:

Commission – Method I

Industry experience will determine the commission percentage. First year permanent drivers are entitled to 45% of all chargeable fares taken, including GST. Casual or second and subsequent year permanent drivers are entitled to 50% of all chargeable fares taken, including GST. A driver can retain all tips.

Set Pay-In – Method II

The driver pays you a fixed amount at the end of each shift. Maximum pay-in rates can be downloaded from the NSW Industrial Relations website.



You must give an election form to any driver.

The driver is to return a completed and signed election form to you before the commencement of the first shift, and again within 90 days. You must give the driver a receipted copy.

What records must be kept?

You must generate and maintain copies of the following records for 6 years:

- GST compliant tax invoices with specified particulars as outlined below;
- Records relating to the calculation and payment of annual leave, sick leave, long service leave and payment for down time entitlements of drivers;
- Records relating to any monies deducted by you or bonds deposited with the owner/operator by the driver;
- All Schedule I election forms;
- All Schedule II Driver Log Book forms (as completed by the driver);
- Receipts for each payment made by the driver.

Tax invoices

You must provide the driver with a GST compliant tax invoice no later than 14 days after the completion of each shift. Each tax invoice can include more than one shift. The tax invoice must include the following information:

- Name of the legal entity of the taxi owner/operator;
- The Australian Business Number (ABN) of the taxi owner/operator;
- Name of the driver; and
- For each shift, the date of the shift and the pay-in rate; and the total paid to the taxi owner/operator by the driver.

How is a bailment terminated?

For a permanent driver, you must give the driver one week's notice or payment in lieu of notice. No notice is required for a casual driver.

Leave provisions in the Determination

It is a breach of the Determination to offset leave entitlements for a lower pay-in rate.

Annual leave

A permanent driver is entitled to annual leave on completion of at least 220 night shifts or 230 day shifts within a 12 month period or on termination of their engagement. **Annual leave is to be calculated differently depending on the choice of method of payment.**

Period of bailment - 3-12 months on termination of contract

Commission – Method I - 4/48 of the driver's total entitlement from the chargeable fares.

Set Pay-in – Method II - The rate set out at Item 3 Table 2 of the Determination.

Period of bailment - 12 months

Commission – Method I - 5 weeks equal to 5/47 of the driver's total entitlement from chargeable fares during those 12 months.

Set Pay-in – Method II - 5 weeks paid at the rate set out at Item 2 of Table 2 of the Determination.

Sick Leave

In the first year of bailment a permanent driver is entitled to 5 days of sick leave. Pro rata sick leave is not available until 55 shifts have been completed. In the second and subsequent years of bailment a driver is entitled to 8 days of sick leave. Any untaken sick leave will accumulate.

For Commission – Method I the average earnings per shift over the preceding 3 months are used to work out the rate of sick leave. For Set Pay-in – Method II the rate of sick leave is set out at Item 4 of Table 2 of the Determination.

Long Service Leave

A driver may be entitled to long service leave if they have worked for the same taxi owner/operator continuously as a permanent driver for 5 years.

Would you like more information?

www.industrialrelations.nsw.gov.au
www.pointtopoint.nsw.gov.au
www.rms.nsw.gov.au

TAXI INDUSTRY (CONTRACT DRIVERS) CONTRACT DETERMINATION 1984

NSW INDUSTRIAL RELATIONS



Premier
& Cabinet

- Taxis/Hire Car legislation in NSW.
- Taxi Industry (Contract Drivers) Contract Determination 1984
 - Terms of engagement.
 - Method of payment.
 - Leave entitlements.
 - Invoice & Record Keeping.
 - Owner/Driver Obligations.
- Where to go for information.



TAXI INDUSTRY

- Taxis in NSW are now covered by;
 - Point to Point Transport (Taxis/Hire vehicle) Act 2016; and
 - Point to Point (Taxis/Hire vehicle) Regulation 2017
- The Point to Point Transport Commission manages the enforcement of the Act and regulation
- **Point to Point contact information:**
 - Phone: 131 727
 - www.pointtopoint.nsw.gov.au

TAXI INDUSTRY

- Taxi and Hire Car drivers as of 1 November 17 are required to hold a Passenger Transport Licence Code on an unrestricted Australian Licence.
- The Licence Code provides for safety standards that is the responsibility of the Taxi provider to ensure;
 - that drivers pass a criminal threshold,
 - medical fitness to drive,
 - have an unrestricted driving licence for at least 12 months in the last 2 years and pass English testing

TAXI INDUSTRY

- Roads and Maritime Services (RMS) manages;
 - Driver licensing,
 - Passenger Transport licence code for medical standards
 - Vehicle registration for taxis and hire vehicles

Roads and Maritime contact information:

- Phone: 13 22 13
- www.rms.nsw.gov.au



TAXI INDUSTRY



The Determination

- Sets minimum terms of engagement and shall apply to a Contract of Bailment of a taxi cab in the Metropolitan Transport District* made after or existing at 12 March 1984. (*As defined by Transport NSW)

TAXI INDUSTRY

- Taxis within the Metropolitan Transport District in Sydney are not covered by the National Workplace Relations System and the *Fair Work Act 2009*
- Remain within the NSW Industrial Relations System and chapter 6 of the Industrial Relations Act 1996
- The Taxi industry in other transport districts in NSW are not covered by the (Contract Drivers) Contract Determination but still fall under Point to Point legislation

(CONTRACT DRIVERS) CONTRACT DETERMINATION 1984

This contract determination only applies to the transport metropolitan district as prescribed by the *Transport Administration Act 1988*.

To help with the coverage of the **Taxi Industry (Contract Drivers) Contract Determination, 1984** and **who it applies to** the following transport metropolitan district and suburbs include:

City of Sydney	Northern	Southern	Eastern	Western
City of Sydney Baulkham Hills Shire Castlereagh Dundas Eastwood Ermington and Rydalmere Hunter's Hill Hornsby Shire Ku-ringgai	Lane Cove Manly Mosman North Sydney Richmond Ryde Warringah Shire Willoughby Windsor Bankstown Bexley *Bulli Shire Cabramatta and Canley Vale •Camden Campbelltown Canterbury Darlington Enfield Erskineville	Fairfield Hurstville Ingleburn Kogarah Liverpool Marrickville Nepean Shire Newtown Rockdale St. Peters Sutherland • Wollondilly Shire	Alexandria Botany Mascot Paddington Randwick Redfern Vaucluse Waterloo Waverley Woollahra	Annandale Ashfield Auburn Balmain Blacktown Shire Burwood Concord Drummoyne Glebe Granville Holroyd Homebush Leichhardt Lidcombe Parramatta Penrith Petersham Strathfield St. Mary's

- Portion within County of Cumberland.

TAXI INDUSTRY

Displaying a copy of the determination

- Industrial Relations Act 1996, Section 361.
- Any Bailor (Owner/Operator) engaging Bailees (Drivers) must display a copy of The Taxi Industry (Contract Drivers) Contract Determination 1984, and
- Must be made freely available for drivers in a place/location at the business and/or depot.

TAXI INDUSTRY

Bailor or Bailee?

- Bailor is the Owner/Operator of the Taxi
- Bailee is a Driver who takes a taxi on bailment from the owner/operator for a shift as a permanent or casual driver



PERMANENT ENGAGEMENT

- Regularly takes a taxi cab on bailment from the same bailor for five shifts per week or at least 220 night shifts per year
- Entitled to paid annual leave, sick leave and long service leave
- Termination, one weeks notice by either party is required

CASUAL ENGAGEMENT

- Is a driver (bailee) not being permanent and with no entitlement to any paid leave
- Termination: no notice is required for a casual bailee
- ✓ Go to our website for Taxi Industry New fact sheet for taxi owners and operators
- ✓ New fact sheet for taxi drivers
- ✓ Recorded Webinars

TAXI INDUSTRY

Shift

- Shift means the taxi cab is available for use as agreed between the driver and the owner/operator for 9 hours

Day Shift

- Day shift means a shift where the taxi is available for use for 9 hours but not exceeding 12 hours and at least 75 % of hours are between 3 am and 3 pm

Night Shift

- Night shift means a shift where the taxi is made available for use for 9 hours but not exceeding 12 hours and at least 75 % of hours are between 3 pm and 3 am

TAXI INDUSTRY

Method of Payment

The Driver shall have the legal right to choose and elect to operate under:

- Method I (commission) or Method II (set pay-in)
- A driver commencing a new contract of bailment has the right to elect the method of payment after engagement by the owner/operator:
 - before commencing the first shift; and
 - again within 90 days from the date of the first bailment with the owner/operator

TAXI INDUSTRY

Election Form – Method of Payment for Taxi Drivers

- An owner/operator shall give to any driver who has a right of choice as specified, an election form as set out in Schedule 1, of Part A of the determination
- The driver shall complete and sign the election form and return it to the owner/operator, who shall give the driver a receipted copy

TAXI INDUSTRY

Driver Not to be Victimised

- An owner/operator shall allow a driver the right to exercise the right to elect the method of payment available under the determination, freely, voluntarily and without pressure of any kind
- It shall be a breach of this determination for a driver to be victimised or terminated because of their choice of method of payment that the driver has made

Method of Payment for Taxi Drivers

Method I – Commission

- A driver who operates on Method I shall be entitled to receive and retain from the chargeable fares, the amount of the driver's percentage
- Where a driver's log book is supplied by the owner/operator, the driver shall record on that log, the following information;
 - Meter readings, trips and units, as prescribed in the drivers log book
- The operator pays for all fuel and car wash

Method of Payment for Taxi Drivers

Method I – Commission

- A First Year permanent driver shall be 45% of all chargeable fares taken, including GST
- A Casual or Second and Subsequent Year permanent driver shall be 50% of all chargeable fares taken including GST
- Notation: The casual driver's percentage includes compensation for not having sick or annual leave entitlements
- A driver can retain tips

Method of Payment for Taxi Drivers

Method II – Set Pay-in

- A driver shall be entitled to receive and retain from the chargeable fares, the balance left after deducting the amounts set out in Table 1 – Wages, Part B
- An owner/operator and a driver may agree on lesser Pay-in amounts than those specified in Table 1 – Wages, Part B
- provided that such an agreement shall not operate to relieve the owner/operator of the obligation to comply with any requirement of the determination e.g. Annual leave

Method of Payment for Taxi Drivers

Method II – Set Pay-in

- The driver shall at the conclusion of each shift pay to the owner/operator that part of the chargeable fares which the driver is not entitled to receive and retain
- The owner/operator shall give to the driver a dated and signed receipt for each such payment, no later than the first occasion the driver attends for work in normal business hours after the payment has been made
- The driver shall pay for fuel and car wash

TAXI INDUSTRY

■ Maximum Pay-in Effective 22 July 2012

SHIFT	Maximum Pay-in including GST \$	KM	Excess per Km
Day Shifts – all days	175.01	260	0.72 cents
Night shifts – Monday	189.89	300	0.72 cents
Night shifts - Tuesday	193.18	320	0.72 cents
Night shifts - Wednesday	208.30	320	0.72 cents
Night shifts - Thursday	235.03	350	0.72 cents
Night shifts - Friday	266.55	400	0.72 cents
Night shifts - Saturday	266.55	400	0.72 cents
Night shifts - Sunday	206.63	320	0.72 cents

TAXI INDUSTRY

Invoice and Record Keeping Procedures

The Owner/Operator shall provide, or must have previously provided, the driver with:

- The name of their legal entity and the ABN by no later than the commencement of each shift

The owner/operator shall provide the driver with:

- A tax invoice which complies with the GST legislation by no later than 14 days after the completion of each shift
- Tax invoices may include more than one shift

TAXI INDUSTRY

Invoice and Record Keeping Procedures

The owner/operator shall generate and maintain copies of the following records for a period of six (6) years:

- Tax invoices
- Records relating to the calculation and payment of:
 - annual leave, sick leave, long service leave and down time entitlements of drivers
- Records relating to any monies deducted by the owner/operator or bonds deposited by the driver to the owner/operator
- All Schedule I election forms and Schedule II Driver Log Book forms
- Payment Receipts from Bailee to Bailor

TAXI INDUSTRY

The Owner/Operator shall pay for all;

- Oil, maintenance, registration and licence fees in respect of the operation of the taxi cab; and
- Fuel in respect of any driver operating under method I - Commission
- In this respect the owner/operator reserves the right to nominate the points for the purchase of fuel, oil and other such commodities
- The driver under method I shall hand to the owner/operator, at the conclusion of each shift, receipts for the purchase of such items

TAXI INDUSTRY

The driver shall at all times during the bailment -

- Comply with all Acts, regulations, by-laws, ordinances and all legislative provisions in force, in regard to motor vehicles, motor traffic and taxi cabs
- Exercise proper care for and control of the taxi cab for fare paying passengers and luggage only, and
- Not permit any other person to drive the cab or operate outside the area for which it is licensed to operate without permission

TAXI INDUSTRY

The driver shall at all times during the bailment -

- Comply with all rules and by-laws of any co-operative in association with which the taxi cab is operated or any company or other group associated with the co-operative
- At the conclusion of each shift or the earlier termination of the bailment, the driver shall return the taxi cab to the garage or depot being used by the owner/operator

TAXI INDUSTRY



Provisions of Uniforms

- Where the owner/operator requires the driver to wear a distinctive dress or uniform, it shall be provided and laundered free of cost to the driver
- At all times the driver shall present him/herself for work in dress to comply with Department of Roads and Maritime Services regulations

TAXI INDUSTRY

Annual Leave

- A permanent driver for a period of 12 months who has completed a minimum of 230 shifts or 220 night shifts from the one bailor shall be;
 - entitled to 5 weeks' annual leave, exclusive of any public holidays occurring during that period

Method I

- Payment in total for such annual leave shall be equal to $\frac{5}{47}$ of the driver's total entitlement from the chargeable fares during those twelve months

Method II

- Shall be entitled to 5 weeks' annual leave, exclusive of any public holidays occurring during that period, at the rate set out in Item 2 of Table 2

Pro-rata Annual Leave payment for 3 months or more but less than 12 months service

Case Study - Annual Leave

NSW Industrial Relations v GM Cabs Pty Ltd (2019/00090845)

- Dispute as to whether a bailee was a permanent driver as defined in the determination and entitled to an annual leave payment
- The Bailor claimed that the Bailee (driver) did not fulfil the requirements of taking a taxi on bailment of 220 night shifts or 230 shifts in a year to qualify as a permanent driver to become entitled to annual leave as set out in the determination
- Following a lengthy investigation the Inspector found there was an entitlement to annual leave, however the bailor continued to dispute this.
- Court attendance notices were issued and the bailor paid the complainant the amount outstanding shortly before the hearing date.
- Nevertheless, it was decided to proceed to obtain a judgement and penalty to serve as a deterrent against future repeated behaviour.

Case Study - Annual Leave

NSW Industrial Relations v GM Cabs Pty Ltd (2019/00090845)

- At the hearing, GM Cabs entered a guilty plea and an agreed statement of facts was presented to the court. After hearing submissions from both parties, her Honour delivered a judgment which took into account the fact that the annual leave amount owed to the complainant had been paid by the defendant.
- Her Honour noted that denying the complainant his entitlements at the end of his employment was a serious concern.
- There were other complicating factors and in the end her Honour considered the matter to be at the lowest end of contraventions.
- Accordingly, she ordered the defendant to pay a civil penalty in the sum of \$500 and that the defendant pay the prosecutor's costs.

TAXI INDUSTRY

Sick Leave

- A permanent driver shall be entitled to five (5) days' sick leave during the first year of bailment:
 - Pro-rata leave available after the completion of 55 shifts in a three month period
- During the second and subsequent years, a permanent driver shall be entitled to eight (8) days' sick leave
- The rights and entitlements to sick leave under this clause shall accumulate
- A permanent bailee in the industry, with one or more bailors shall not be entitled to total sick leave in excess of that stipulated above in any 12 months period

TAXI INDUSTRY

Long Service Leave

- Permanent drivers, who have served continuously with one owner/operator for a period of not less than five years, shall be entitled to long service leave
- The conditions of eligibility for leave, shall be by reference to the Long Service Leave Act 1955,
- The calculation of the rate per week of such leave shall be equivalent to the rate per week provided in clause 19, Annual Leave, of this determination

TAXI INDUSTRY

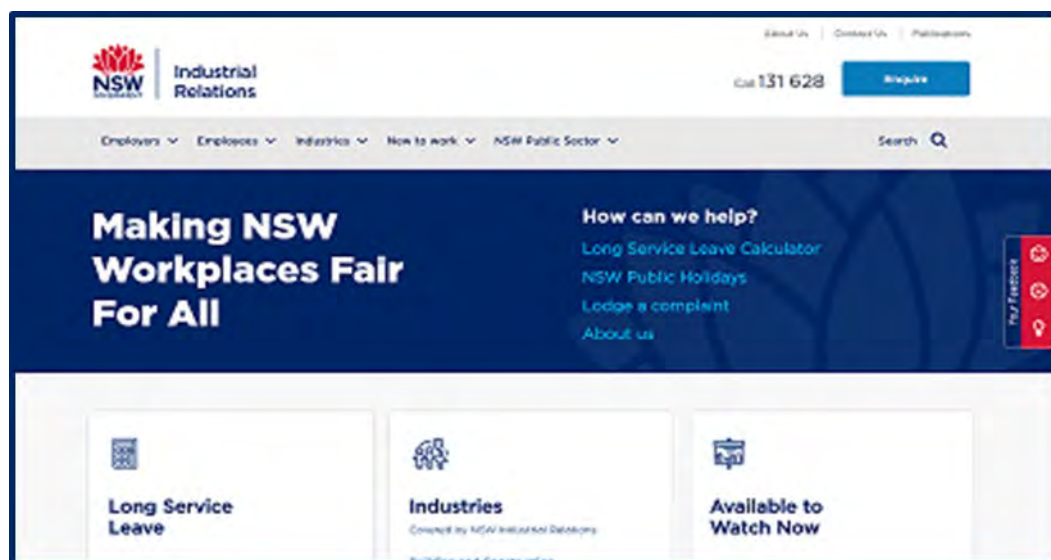


Other rates payable

- Holiday rate: \$833.28 per week x 5 weeks per year
- Sick leave: \$167.22 per day

Calculating Long Service Leave

To obtain your Long Service Leave entitlement we recommend you use the [Leave Calculator](#). Below is an example of how the Leave Calculator works: -



www.industrialrelations.nsw.gov.au

Step 1 - Period of employment

Please note that casual service before 9 May 1985 does not count as service and should be excluded from the calculation.

Start Date

End Date

Two date input fields with calendar icons and red arrows pointing left, indicating a range of dates.

Step 2 - Absences that do not count as service

Further details, including information on parental leave, is available at the Frequently Asked Questions section of this website.

From:

To:

Two date input fields with calendar icons.

Add Another

Step 3 - Calculate

A blue 'Calculate' button with a red arrow pointing left.

Step 4 - Leave already taken

Any long service leave taken should be manually subtracted from this calculation.

Point to Point Transport Commission – 131 727

www.pointtopoint.nsw.gov.au

Roads and Maritime - 13 22 13

www.rms.nsw.gov.au

Transport for NSW – 131 500

www.transport.nsw.gov.au

SafeWork NSW - 131050

www.safework.nsw.gov.au

Anti Discrimination Board of NSW - (02) 9268 5544

www.antidiscrimination.justice.nsw.gov.au



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**Premier
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TRANSPORT INDUSTRY CONTRACTS OF CARRAIGE AND BAILMENT

NSW INDUSTRIAL RELATIONS



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MORE KNOWLEDGE AND UNDERSTANDING

- NSW Industrial Relations Act 1996
 - Objective
- NSW Industrial Relations
 - Compliance
- NSW Private Sector Employers & Employees
- Chapter 6 – Public Vehicles and Carriers
 - Contract Determination
 - Contract of Bailment
 - Contract of Carriage
 - Contract Determinations
- **Where to go for more information**



NSW Industrial Relations Act 1996



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Objective



- To provide a framework for the conduct of industrial relations that is fair and just
- To promote efficiency and productivity in the economy of the state
- To facilitate appropriate regulation of employment through awards, enterprise agreements and other industrial instruments
- To encourage and facilitate co-operative workplace reform and equitable, innovative and productive workplace relations

NSW Industrial Relations Act 1996



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NSW Industrial Relations

Promoting compliance with industrial legislation by:

- Providing information, advice and assistance relating to industrial entitlements
- Undertaking industrial inspections and industry targeted campaigns
- Where necessary, prosecuting breaches of industrial law
- Has a specialist team to help Aboriginal and Torres Strait islanders in NSW understand their rights and responsibilities as employees, employers and managers



NSW Industrial Relations Act 1996



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NSW Private Sector Employers and Employees



2006

NSW employees who worked for 'constitutional corporations' were transferred into the federal workplace relations jurisdiction on 27 March 2006

NSW industrial relations laws continued to apply to unincorporated businesses until end of December 2009

2010

Fair Work Act 2009 and the National system commences with new modern award system and ten National Employment Standards for most private sector employers/employees in NSW

NSW Industrial Relations Act 1996



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NSW Private Sector Employers and Employees

Exemption

Independent owner/drivers and Taxis/Hire cars are not covered by the national workplace relations system or the Fair Work Act 2009

Remain within the NSW industrial relations system; and NSW Industrial Relations Act 1996;

- Chapter 6
 - Contracts of Carriage
 - Contracts of Bailment



NSW Industrial Relations Act 1996



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Chapter 6 - Public Vehicles and Carriers

A unique employment provision covering;



- Principle Contractors and Couriers/Carriers who own and operate their vehicle who enter a contract for the transport of goods in NSW
- Taxi Owner/Operators and Drivers operating a taxi in the Sydney Metropolitan Transport District
- Chapter 6 enables NSW Industrial Relations Commission to set minimum terms and conditions under a **Contract Determination** for a **contract of carriage** or **contract of bailment**

NSW Industrial Relations Act 1996



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What is a Contract Determination

- Set and determined by the NSW Industrial Relations Commission
- A contract determination provides protections and creates a safety net of mutual obligations of engagement for a contract of carriage or contract of bailment
- A contract determination is binding on all Principal Contractors and Couriers/Carriers, Bailors/Bailees who are parties to contracts of the class to which the determination relates as the Commission may direct
- Breaches of terms and conditions can be investigated and legally enforced



What is a Contract of Bailment

A contract of bailment is a contract under which:

- a public vehicle that is a taxi is bailed to a person (Driver) to enable the person to ply for hire, or
- a public vehicle that is a hire vehicle is bailed to a person (Driver) to transport passengers.
- Taxi owner/operators and drivers are covered by Taxi Industry (Contract Drivers) Contract Determination 1984:
 - Sets minimum terms of engagement and shall apply to a Contract of Bailment of a taxi cab in the Metropolitan Transport District* made after or existing at 12 March 1984. (*As defined by Transport NSW).
- The Taxi industry in other transport districts in NSW are not covered by the (Contract Drivers) Contract Determination.

Other legislation for all Taxis/Hire vehicles in NSW;

- Point to Point Transport (Taxis/Hire vehicle) Act 2016 and Regulation 2017



Contract Drivers and Couriers

What is a Contract of Carriage



- A contract of carriage is a contract for the transportation of goods by means of a motor vehicle or bicycle in the course of a business of transporting goods
- It is a unique employment provision providing protections and obligations on both the owner/driver of a vehicle and the Principle Contractor under certain contracts of carriage
- Determines the conditions under which a contract of carriage to transport goods from one destination to another within certain locations in NSW either to or from designated a pick up point and to/or from a warehouse or depot and/or to the delivery destination
- Sets fair and reasonable rates based on the type of vehicle used, and other factors such as weight, distance and time to deliver the goods

Contract Drivers and Couriers

What is a Contract of Carriage

- The relationship between a contract carrier and a principal contractor shall be that of independent contractors and not master and servant
- All contracts of carriage performed by a contract carrier with a principal contractor shall be treated as individual contracts of carriage, irrespective of whether they are performed concurrently or consecutively
- The contract carrier shall be entitled to remuneration for each contract of carriage performed



Contract Drivers and Couriers

What is a Contract of Carriage

Provided that there is an agreement for the transportation of goods, the carrier is the owner of the vehicle used and if registered as a:

- **Sole Trader** - no other person is employed in driving the vehicle in the course of that business, except for relief purposes by notification;
- **Partnership** - no person other than a partner is employed in driving the vehicle in the course of that business; or
- **Company** - no person is employed in driving the vehicle in the course of that business other than a director of the company or family member of a director;
 - a person who, together with members of their family, has a controlling interest in the company; or
 - a member of the family of a person, who together with the members of his or her family, has a controlling interest the company



Contract Drivers and Couriers

A Contract of Carriage **does not include a contract**

- Made in the ordinary course of the business of the carrier as a common carrier, or
- For the carriage of;
 - packaged goods for different principal contractors, or
 - mail by or on behalf of Australia Post, or
 - bread, milk or cream for sale or delivery for sale
 - goods that are to be sold pursuant to orders solicited during the transport of the goods,
 - for the delivery of meals by couriers to homes or other premises for consumption
 - livestock, or;
- if the principal contractor is a primary producer or a member of the family of a primary producer and the contract is for the transportation of primary produce (other than timber), or
- The transportation of primary produce (other than timber) from or to land used for primary production



Contract Determinations



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Over 30 accessible through our website

Industrial Relations

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Home / Industries / Key Industries in NSW / Transport

Transport

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Award title	Award code
Australian Liquor Marketers Pty Limited Carriers Contract Determination	1874
Boral Country Concrete and Quarries Contract Determination	1613
Boral GST Protocol Facilitation and Compliance Contract Determination	1548
Boral Resources NSW Pty Limited Sydney Metropolitan Contract Determination	1801
Boral Transport Limited Haulier Contract Determination	1911
CEVA Logistics Australia Pty Ltd NSW Vehicle Logistics Local Fleet Contract Determination	1675

Key Industries in NSW

- Building and Construction
- Transport
- Taxi
- Local Government

industrialrelations.nsw.gov.au/industries/key-industries-in-nsw/transport

Let's highlight the main ones

Contract Determinations



Transport Industry;

- Courier And Taxi Truck Contract Determination
- General Carriers Contract Determination 2017
- Excavated Materials Contract Determination
- Waste Collection And Recycling Contract Determination
- Car Carriers (NSW) Contract Determination

Other Principle Contractor Specific Determinations examples;

- Boral, Smith Family, Mayne Logistics, Ready Mix Holdings and Allied Express

Contract Drivers and Couriers

COURIER AND TAXI TRUCK CONTRACT DETERMINATION

Area, Incidence and Duration

Shall operate in respect of all contracts of carriage performed in relation to couriers and taxi truck work by the use of a bicycle or any type of motor vehicle up to 4.5 tonnes carrying capacity:

- from one place to another within the County of Cumberland; or
- from one place to another, both of which are within the state of New South Wales excluding the County of Yancowinna; and
 - are within the area of a circle of radius 50 kilometres, the centre of which is the point of commencement of a contract of carriage being performed by a contract carrier



Contract Drivers and Couriers

COURIER AND TAXI TRUCK CONTRACT DETERMINATION



Excluding

- Express Road/Air Freight, Parcel work
- Contracts of carriage to which the Transport Industry - General Carriers Contract Determination applies;
 - If principally general carrier and not **courier work** or **taxi truck work** as defined

Contract Drivers and Couriers

COURIER AND TAXI TRUCK CONTRACT DETERMINATION

- **Courier Work** means the transportation by means of a courier or taxi truck vehicle of goods of up to a maximum of 250 kilograms of weight
- **Taxi Truck Work** means the transportation by means of a courier or taxi truck vehicle of goods of above 250 kilograms and up to a maximum of 4500 kilograms of weight where it is intended by the parties that the
 - time to be taken is of the shortest possible time or within the time requested and
 - In any event completion is to be effected on the same day as commencement or by the earliest reasonable possible time on the following working day



Contract Drivers and Couriers

GENERAL CARRIERS CONTRACT DETERMINATION 2017

Area, Incidence and Duration

Applies:

- To all Contracts of Carriage from one place to another place, both of which are within the County of Cumberland; and
- To all Contracts of Carriage for the transportation of goods from one place to another place, where
 - the second place is no more than 50 kilometres from the first place



Contract Drivers and Couriers

GENERAL CARRIERS CONTRACT DETERMINATION 2017

Area, Incidence and Duration

- Also applies to a Contract of Carriage involving a single journey commencing within the County of Cumberland and finishing within:
 - a 50 kilometre radius of the Newcastle GPO; or
 - a rectangular area being 50 kilometres North of the Wollongong GPO, 20 kilometres East of the Wollongong GPO, 50 kilometres South of the Wollongong GPO and 20 kilometres West of the Wollongong GPO



Contract Drivers and Couriers

EXCAVATED MATERIALS, CONTRACT DETERMINATION

Area, Incidence and Duration

- Applies to all contracts of carriage of excavated and demolition material and to all contractors and contract carriers engaged in or in connection with such work in the State of New South Wales,
- Excavation and Demolition Material means any material that is removed from the earth at building and/or construction and/or demolition sites
- Any contract carrier performing cartage work for a contractor will be paid according to one of the following methods, as determined by the contractor:
 - Kilometre rates
 - Hourly rates
- Payments Included in the Rates
 - 20 days annual leave; five days leave loading; all paid public holidays as provided for by applicable legislation; 34.8 hours long service leave per annum; 64 hours sick leave per annum; and rostered industry day off



Contract Drivers and Couriers

WASTE COLLECTION AND RECYCLING CONTRACT DETERMINATION

Area, Incidence and Duration

- Shall apply in respect of contracts of carriage for the collection and transportation by motor vehicle of domestic waste and domestic recycling material of all descriptions within New South Wales,
- Shall not apply where the principal contractor is a body established under the Local Government Act (1993)
- Method of payment can be hourly rates or bin, unit or other rates as selected by principle contractor
- 4 weeks unpaid annual leave per annum
- Uniforms supplied and paid by principle contractor
- Obligations to the contract of carriage placed on both principle contractor and contract carrier



Contract Drivers and Couriers

CAR CARRIERS (NSW) CONTRACT DETERMINATION

Class of Contract of Carriage, Locality and Duration

- This contract determination shall operate in respect of contracts of carriage for the transportation of cars within New South Wales by the use of equipment designed or modified for that purpose,
- Excluding
 - contracts outside New South Wales, and
 - Operators licensed under the Tow Truck Act 1989.
- Rates based on
 - Local work broken into zones
 - Intrastate work
 - Vehicle car capacity and cars delivered



USEFUL CONTACTS



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Industrial Relations

industrialrelations.nsw.gov.au

Roads and Maritime - 13 22 13

rms.nsw.gov.au

Transport for NSW - 131 500

transport.nsw.gov.au

SafeWork NSW - 131050

safework.nsw.gov.au

Point to Point Commission

pointtopoint.nsw.gov.au

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