



Victoria Government Gazette

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Transport Act 1983

CONDITIONS UNDER SECTION 220D

I, Jim Betts, Director of Public Transport, pursuant to Section 220D of the **Transport Act 1983** and section 13 of the **Subordinate Legislation Act 1994**, hereby determine and publish in the Government Gazette the following conditions.

These conditions amend the conditions contained in the Victorian Fares and Ticketing Manual 2006 published in the Victoria Government Gazette No. S 1 Tuesday 3 January 2006 (the Principal Conditions) and take effect from and including 31 July 2006.

In Chapter 9 of the Principal Conditions, immediately before the heading “**Defective tickets (Metcard only)**”, insert the following –

“Surrendered tickets

These conditions apply if a ticket is surrendered in compliance with a request made under regulation 19 of the Transport (Ticketing) Regulations 2006.

In these conditions, “**enforcement activity**” means the issue and enforcement of an infringement notice or the bringing and prosecuting of proceedings for an offence.

If the holder of a ticket surrenders the ticket to an authorised officer while travelling in a passenger vehicle, he or she will be issued with a travel permit for the balance of the travel authorised by the ticket up to a maximum of seven days travel.

A surrendered ticket will be retained by the authorised officer or the member of the police force to whom the ticket was surrendered, or by the Department of Infrastructure, at least until –

- (a) a decision is taken to not proceed with any enforcement activity to which the ticket is relevant; or
- (b) all enforcement activities to which the ticket is relevant are concluded.

When either of the events referred to in the immediately preceding paragraph occurs, the following conditions apply in respect of the surrendered ticket –

- If the ticket is a concession ticket which has been used by a person who has no entitlement to rely on the concession ticket for travel in a passenger vehicle or entry to a designated area –
 - (a) no replacement tickets will be issued and no refund will be made, to the extent of the whole or part of any unused value remaining on the ticket at the time of surrender; and
 - (b) the ticket will not be returned except as provided in the next succeeding dot point.
- If a person referred to in the immediately preceding dot point obtains an entitlement to rely on the concession ticket for travel in a passenger vehicle or entry to a designated area and –
 - (a) applies for the return of the ticket; and
 - (b) presents evidence of the relevant entitlement –

to the Department of Infrastructure within 28 days of a decision to not proceed with any enforcement activity, or of the conclusion of all enforcement activities, to which the ticket is relevant, the ticket will be returned if it has any remaining unused value, but no replacement tickets will be issued, and no refund will be made, to the extent of the whole or part of any unused value remaining on the ticket at the time of surrender.

SPECIAL

- If the ticket was fraudulently or, in some other way, dishonestly obtained or used –
 - (a) no replacement tickets will be issued and no refund will be made, to the extent of the whole or part of any unused value remaining on the ticket at the time of surrender; and
 - (b) the ticket will not be returned –except as provided in the next succeeding dot point.
- If the original holder of a fraudulently or dishonestly obtained or used ticket applies to the Department of Infrastructure for the return of that ticket within 28 days of the conclusion of all enforcement activities to which the ticket is relevant and satisfies the Department that he or she was not a party to the deception or dishonesty –
 - (a) if the ticket has any remaining unused value, it will be returned to the original holder; and
 - (b) whether or not the ticket is returned under paragraph (a), the original holder is entitled to a replacement ticket or tickets, or a refund, to the extent of the whole of any unused value remaining on the ticket at the time of surrender, less, if the ticket is returned, any remaining unused value as at the date the ticket is returned.
- If the enforcement activities culminated in a successful prosecution of the holder of the ticket, the informant may seek an order for the forfeiture of the ticket. If such an order is not made by the Court, the ticket will be returned to the person prosecuted if it has any remaining unused value, but no replacement tickets will be issued, and no refund will be made, to the extent of the whole or part of any unused value remaining on the ticket at the time of surrender.
- If the enforcement activities culminated in the prosecution of the holder of the ticket and that prosecution resulted in the acquittal of the holder of the ticket on the charge or charges and if the holder makes application to the Department of Infrastructure within 28 days of the Court's decision –
 - (a) if the ticket has any remaining unused value, it will be returned to the holder; and
 - (b) whether or not the ticket is returned under paragraph (a), the holder is entitled to a replacement ticket or tickets, or a refund, to the extent of the whole of any unused value remaining on the ticket at the time of surrender, less, if the ticket is returned, any remaining unused value as at the date the ticket is returned.
- If an infringement notice was issued and either –
 - (a) the penalty specified in the notice is paid before an enforcement order in respect of the notice is made; or
 - (b) if the notice becomes the subject of an enforcement order, the amount required to be paid under the order is paid –and if the holder of the ticket makes application to the Department of Infrastructure within 28 days of the payment of the penalty or amount (as the case may be), the ticket will be returned to the holder if it has any remaining unused value, but no replacement tickets will be issued, and no refund will be made, to the extent of the whole or part of any unused value remaining on the ticket at the time of surrender.
- If –
 - (a) an infringement notice was issued; and
 - (b) the notice was lodged with the Infringements Registrar; and
 - (c) the notice was subsequently revoked by a Court; and
 - (d) under section 69 of the **Infringements Act 2006**, the matter is not referred to the Court –

and if the holder of the ticket makes application to the Department of Infrastructure within 28 days of receiving the notice under section 69(3) of the **Infringements Act 2006** from the Infringements Registrar that the matter will not be referred to the Court –

- (e) if the ticket has any remaining unused value, it will be returned to the holder; and
- (f) whether or not the ticket is returned under paragraph (e), the holder is entitled to a replacement ticket or tickets, or a refund, to the extent of the whole of any unused value remaining on the ticket at the time of surrender, less, if the ticket is returned, any remaining unused value as at the date the ticket is returned.

- If an infringement notice was issued, but later withdrawn and either –
 - (a) a decision was made to not undertake any other enforcement activity to which the ticket is relevant; or
 - (b) an official warning is given to the holder of the ticket –and if the holder of the ticket makes application to the Department of Infrastructure within 28 days of receiving the notice of withdrawal or warning letter (as the case may be) –
 - (c) if the ticket has any remaining unused value, it will be returned to the holder; and
 - (d) whether or not the ticket is returned under paragraph (c), the holder is entitled to a replacement ticket or tickets, or a refund, to the extent of the whole of any unused value remaining on the ticket at the time of surrender, less, if the ticket is returned, any remaining unused value as at the date the ticket is returned.
- Unless the ticket is a ticket referred to in the first dot point above, if a decision was taken to not proceed with any enforcement activity to which the ticket is relevant, and if the holder of the ticket makes application to the Department of Infrastructure –
 - (a) if the ticket has any remaining unused value, it will be returned to the holder; and
 - (b) whether or not the ticket is returned under paragraph (a), the holder is entitled to a replacement ticket or tickets, or a refund, to the extent of the whole of any unused value remaining on the ticket at the time of surrender, less, if the ticket is returned, any remaining unused value as at the date the ticket is returned.
- An application under the last preceding dot point must be made no later than 28 days after the holder of the ticket receives advice from the Department of Infrastructure that no enforcement activity to which the ticket is relevant will proceed.”

In Chapter 13 of the Principal Conditions, after the definition of “passenger service”, **insert** the following definition –

‘ **“passenger vehicle”** means a tram, train or bus operated by or on behalf of an operator.’

Dated 28 July 2006

JIM BETTS
Director of Public Transport

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