



Victoria Government Gazette

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Transport (Compliance and Miscellaneous) Act 1983 ORDER MADE UNDER SECTION 143A OF THE **TRANSPORT (COMPLIANCE AND MISCELLANEOUS) ACT 1983**

Order for the granting of Taxi-cab Licences in Taxi-cab Zones

Definitions

In this Order:

Licensing Authority has the meaning given in section 2 of the Transport (Compliance and Miscellaneous) Act;

Order means this Order of the Minister made under section 143A(1) of the Transport (Compliance and Miscellaneous) Act, published in the Victorian Government Gazette, including Schedule 1 and Appendix 1;

Rules means the procedural rules which are set out in Appendix 1;

Shepparton Taxi-cab Zone means the area within an 8 kilometre radius of the principal post office situated in the City of Greater Shepparton;

Transport (Compliance and Miscellaneous) Act means the **Transport (Compliance and Miscellaneous) Act 1983** (Vic.);

WAT means a wheelchair accessible taxi-cab, which is a taxi-cab specially constructed or modified for the carriage of at least one person seated in a wheelchair; and

WAT Fixed-Term Licence means a taxi-cab licence granted under this Order which will operate for a fixed-term of 10 years and to which is attached (or intended to be attached) a condition that the taxi-cab licensed to operate under the licence is a WAT;

Unless otherwise indicated, words used in this Order have the meanings given in the Transport (Compliance and Miscellaneous) Act.

Order

I, the Hon. Terry Mulder MP, Minister for Public Transport and Minister for Roads, by Order under section 143A of the Transport (Compliance and Miscellaneous) Act:

Taxi-cab zones

1. proclaim the area within an 8 kilometre radius of the principal post office situated in the City of Greater Shepparton as a taxi-cab zone to be known as the Shepparton Taxi-cab Zone for the purpose of granting one taxi-cab licence, being a WAT Fixed-Term Licence;

Characteristics of licence

2. specify that the one taxi-cab licence to be granted is a WAT Fixed-Term Licence and that the term of the WAT Fixed-Term Licence will commence on the date it is granted by the Licensing Authority, and will cease to be valid at the end of the 10 year fixed-term;
3. specify that the WAT Fixed-Term Licence will be subject to a condition that it cannot be assigned;

Licence fee

4. specify that the licence fee to be paid for the WAT Fixed-Term Licence is to be determined by tender, in accordance with the Rules;

Classes and qualifications of persons eligible to apply

5. specify that a person is eligible to apply for a WAT Fixed-Term Licence if and only if the person satisfies the eligibility requirements specified in rule 2.1 of the Rules;

SPECIAL

Procedures

6. specify that the procedures to be followed for the granting of the WAT Fixed-Term Licence by the licensing authority are the procedures set out in Parts B to D of the Rules;

Particulars

7. specify that an application for a WAT Fixed-Term Licence must include the particulars specified in Part B of the Rules being the particulars requested in the attached Application Form.

Due date

8. specify that an application for a WAT Fixed-Term Licence must be lodged with the Licensing Authority, such that it is received by the Licensing Authority, on or before 5 July 2012.

Lapse of applications

9. provide that all applications for taxi-cab licences to operate within the Shepparton Taxi-cab Zone made before the date of publication of this Order are to lapse.

Dated 8 June 2012

HON. TERRY MULDER MP
Minister for Public Transport
Minister for Roads

APPENDIX 1: PROCEDURAL RULES

PROCEDURAL RULES**A. PRELIMINARY****1. Definitions****1.1 In these Rules:**

Applicant means a person who makes an Application;

Application means an application for one WAT Fixed-Term Licence;

Application Fee means the application fee of AUD\$160.50 (GST exempt) that must accompany an Application, as determined by the Licensing Authority under section 147B of the Transport (Compliance and Miscellaneous) Act;

Application Form means the form specified by the Licensing Authority (including the Bid Form) to be used to make an Application;

Application Process means the procedures for the granting of a WAT Fixed-Term Licence specified by the Minister under the Order and documented in these Rules, which operates in the following sequential phases:

- (a) Phase 1: Tender Process; and
- (b) Phase 2: Eligibility and Licensing Process.

Bid means an Application in respect of one WAT Fixed-Term Licence made by an Applicant in a Bid Form which includes a Bid Amount and Bid Quantity and otherwise complies with the requirements of Rule 3.1;

Bid Amount means the amount specified in a Bid Form, which represents the First Instalment of the Licence Fee proposed by an Applicant as part of an Applicant's Application;

Bid Form means the form specified by the Licensing Authority, which forms part of the Application Form, and is the means by which the Applicant places a Bid for consideration in the Tender Process;

Bid Quantity means the amount specified in a Bid Form, which represents the number of licences proposed by an Applicant as part of an Applicant's Application;

Business Day means Monday to Friday excluding public holidays in Melbourne, Victoria;

Corporations Act means the **Corporations Act 2001** (Cth);

CPI means the Consumer Price Index All Groups – Melbourne for the March to March period;

DOT means the State of Victoria acting through the Department of Transport;

Due Date means the due date for Applications for one WAT Fixed-Term Licence, as specified by the Minister in the Order;

Eligibility Criteria means the criteria described in Rule 2.1.2.

First Instalment has the meaning given in Rule 5.2.2, and is payable on receipt of a Selected Bid Notice under Rule 5.3.1(a).

First Instalment Payment Date means the date that the Licensing Authority receives payment of the First Instalment from an Applicant;

Licence Fee means the fee payable for a WAT Fixed-Term Licence in accordance with section 143A(4) of the Transport (Compliance and Miscellaneous) Act, as determined by the Tender Process and is the Bid Amount of a Selected Bid;

Licensing Authority has the meaning given in section 2 of the Transport (Compliance and Miscellaneous) Act;

Licensing Process means the phase of the Application Process described in Part D;

Minister means the Minister(s) responsible for administering Part VI of the Transport (Compliance and Miscellaneous) Act;

Order means this Order of the Minister made under section 143A(1) of the Transport (Compliance and Miscellaneous) Act, published in the Victorian Government Gazette, including Schedule 1 and Appendix 1;

Phase 2 Applicant means an Applicant who has progressed to Phase 2 of the Application Process;

Pool of Ranked Bids means all Bids ranked from highest to lowest by Bid Amount in accordance with Rule 5.1.1;

Ranking and Selection Process means the process set out in Rule 5;

Selected Bid means a Bid that is selected by the Licensing Authority during the Tender Process, under Rule 5.1.3 or 5.1.4;

Selected Bid Notice means a notice given by the Licensing Authority under Rule 5.3.1;

Shepparton Taxi-Cab Zone means the area described as such in the Order;

Tender Process means the phase of the Application Process described in Part C;

Tie Break Process means a ballot conducted by the Licensing Authority where a number of tokens equal to the number of Tied Bids are placed in the ballot and a single token is selected at random;

Tied Bid has the meaning given in Rule 5.1.4;

Victorian Taxi Directorate means a branch within DOT which supports the Licensing Authority as regulator of the taxi-cab industry in Victoria;

Void Application has the meaning given in Rule 4.2.1 and Rule 4.2.2;

Void Bid has the meaning given in Rule 3.3.1 and Rule 3.3.2.

1.2 Unless otherwise indicated, words used in these Rules have the meanings given in the Transport (Compliance and Miscellaneous) Act.

B. MAKING AN APPLICATION

2. Applications

2.1 Entitlement to lodge

2.1.1 A person is only eligible to apply for a WAT Fixed-Term Licence if that person satisfies the Eligibility Criteria.

2.1.2 The Eligibility Criteria are as follows:

- (a) The person must be:
 - (i) a natural person;
 - (ii) a partnership;
 - (iii) a company;
 - (iv) a co-operative;
 - (v) an incorporated association; or
 - (vi) a body corporate,but must not be an unincorporated body or association (other than a partnership).
- (b) The person must hold accreditation under the **Transport (Compliance and Miscellaneous) Act 1983** as:
 - (i) the holder of a taxi-cab licence for the operation of a taxi-cab within Shepparton Taxi-Cab Zone on 8 June 2012; and/or
 - (ii) the operator of a taxi-cab licensed to operate within Shepparton Taxi-Cab Zone on 8 June 2012; and/or

- (iii) a commercial passenger vehicle driver and who has logged on to an electronic transaction terminal fitted to a taxi-cab (in accordance with Victorian Taxi Directorate requirements) licensed to operate within Shepparton Taxi-Cab Zone at least 12 times within the 24 month period immediately prior to 8 June 2012.

2.1.3 If an Applicant does not meet the Eligibility Criteria, the Licensing Authority must refuse the Application.

2.2 Requirements for Applications

2.2.1 All Applications for a WAT Fixed-Term Licence must be made using an Application Form.

2.2.2 Applicants must complete all information as required in the Application Form and must provide all documents and evidence required by the Application Form.

2.2.3 An Application must include a completed and signed Bid Form.

2.3 Application Fee

2.3.1 An Application must be accompanied by the Application Fee.

3. Bids

3.1 Requirements for Bids

3.1.1 A Bid must be set out in a signed Bid Form.

3.1.2 A Bid must be written in English.

3.1.3 A Bid must include a Bid Amount (expressed in full Australian dollars only) in both numerical and written form (noting that where there is a discrepancy between the numerical and written forms, the written form will take precedence).

3.1.4 Applicants are encouraged to select a unique number (that is, a number not ending in zero) for the purpose of a Bid Amount. The selection of a unique number will reduce the likelihood of a Bid being a Tied Bid.

3.2 Effect of Bids once lodged

3.2.1 An Applicant will not be given an opportunity to amend a Bid Form or vary a Bid in any way once a Bid Form has been lodged with the Victorian Taxi Directorate.

3.3 Void Bids

3.3.1 Any Bid which does not comply with Rules 3.1.1 to 3.1.3 is void and will be discarded.

3.3.2 An Applicant may only make one Bid. In the event an Applicant makes more than one Bid, the Bid with the highest Bid Amount will be accepted by the Licensing Authority. Any Bids with lower Bid Amounts will be a Void Bid. In the event the Applicant's Bid with the highest Bid Amount does not comply with Rules 3.1.1 to 3.1.3, it will be a Void Bid.

3.3.3 Void Bids will not be included in the Ranking and Selection Process set out under Rule 5.

4. Lodgement of Applications

4.1 How Applications must be lodged

4.1.1 Applications must be lodged with the Victorian Taxi Directorate such that they are received by the Licensing Authority by the Due Date.

4.1.2 Applications must be placed in a sealed envelope and lodged in accordance with Rule 4.1.3.

4.1.3 Applicants may lodge Applications:

- (a) in person at the Customer Service Centre of the Victorian Taxi Directorate, Level 23, 80 Collins Street Melbourne, by placing a completed Application in the box marked 'Shepparton Taxi-cab Zone Licence Release Tender Box'; or
- (b) by post, to the Victorian Taxi Directorate, care of 'Shepparton Taxi-Cab Zone Licence Release', Locked Bag 20047, Melbourne, Victoria 3001.

4.1.4 It is the responsibility of an Applicant to ensure that an Application is lodged in accordance with Rule 4.1 and received by the Licensing Authority.

4.2 Void Applications

4.2.1 Applications which are not lodged in accordance with Rules 4.1.1, 4.1.2 and 4.1.3 or which are not accompanied by the Application Fee are void and will be discarded.

4.2.2 Any Application which does not include a completed Bid Form is a Void Application.

4.2.3 An Applicant who has made a Void Application will not be contacted by the Licensing Authority to be given any further opportunity to lodge an Application that is not a Void Application.

4.2.4 Any Application Fee paid in relation to a Void Application will not be refunded to the Applicant.

C. PHASE 1: TENDER PROCESS

5. Ranking and Selection Process

5.1 Ranking and Selecting of Bids

5.1.1 All Bids for the WAT Fixed-Term Licence will be ranked from highest to lowest by Bid Amount to form the Pool of Ranked Bids.

5.1.2 If two or more Bids have the same Bid Amount, they are ranked equally.

5.1.3 The Bid with the highest Bid Amount will be selected as the Selected Bid.

5.1.4 If two or more Bids have the highest Bid Amount (Tied Bids), the Licensing Authority will use the Tie Break Process for those Tied Bids to select a Bid as a Selected Bid.

5.1.5 The Tie Break Process will be final and will not be subject to any internal review by the Licensing Authority.

5.2 Amount payable

5.2.1 The total amount payable for the licence will include:

- (a) the First Instalment amount payable under rule 5.3.1; and
- (b) a further nine instalments paid annually, each further instalment being the amount of the previous instalment indexed in accordance with movement in the CPI with the change to be effective from 1 April each year.

5.2.2 The First Instalment amount shall be equal to the Bid Amount of the Selected Bid.

5.3 Selected Bid Notice

5.3.1 The Applicant with a Selected Bid will be sent a Selected Bid Notice by the Licensing Authority. The Selected Bid Notice will advise that the Applicant's Bid is a Selected Bid and will also:

- (a) require the Applicant to pay to the Licensing Authority, in full, the First Instalment amount for the WAT Fixed-Term Licence;
- (b) provide the Applicant with the opportunity to address any matters arising out of the Applicant's Application, as identified by the Licensing Authority and specified in the Selected Bid Notice; and
- (c) require the Applicant to submit an application for accreditation as a taxi-cab licence holder and a taxi-cab operator, in the event the Applicant is not already accredited as a taxi-cab licence holder and a taxi-cab operator in Victoria.

5.3.2 The Applicant must satisfy the requirements of Rule 5.3.1 within five (5) Business Days of the date of the Selected Bid Notice and in accordance with the instructions provided in the Selected Bid Notice.

- 5.3.3 In the event the Applicant is unable to satisfy the requirements of Rule 5.3.1 within five (5) Business Days of the date of the Selected Bid Notice, the Applicant may apply to the Licensing Authority (within that five (5) Business Day period) for an extension of time, of up to an additional five (5) Business Days, to satisfy the requirements of Rule 5.3.1. The Licensing Authority, exercising absolute discretion, may grant or refuse an Applicant's request for an extension of time.
- 5.3.4 An Applicant may only apply for an extension of time once under Rule 5.3.3.
- 5.3.5 If an Applicant fails to comply with Rule 5.3.2, in circumstances where no extension of time under Rule 5.3.3 is granted, the Applicant's Application must be refused by the Licensing Authority and the Applicant's Bid must be removed from the Pool of Ranked Bids.
- 5.3.6 If an Applicant fails to satisfy the requirements of Rule 5.3.1 within the period of time granted by the Licensing Authority, pursuant to a request for an extension of time under Rule 5.3.3, the Applicant's Application must be refused by the Licensing Authority and the Applicant's Bid must be removed from the Pool of Ranked Bids.
- 5.3.7 Where an Applicant's Application is refused under Rule 5.3.5 or Rule 5.3.6, the Licensing Authority may, exercising absolute discretion, return to the Pool of Ranked Bids and select the highest ranked Bid that is not (or has not been) a Selected Bid to become a Selected Bid and send a Selected Bid Notice to the Applicant who submitted that Bid.

5.4 Progression to Phase 2: Licensing Process

- 5.4.1 An Applicant with a Selected Bid who complies with Rule 5.3.1 within the timeframe set by Rule 5.3.2, or, if an extension of time is granted by the Licensing Authority pursuant to Rule 5.3.3, within the period of time granted pursuant to that extension of time, in respect of that Selected Bid, becomes a Phase 2 Applicant in respect of that Selected Bid and the Application progresses to the Licensing Process.

D. PHASE 2: LICENSING PROCESS

6. Obtaining a licence

6.1 Requirements of the Licensing Process

- 6.1.1 The Phase 2 Applicant must obtain accreditation as a taxi-cab licence holder and a taxi-cab operator, if the Applicant is not already accredited as a taxi-cab licence holder and operator in Victoria; and

6.2 Grant of Licence

- 6.2.1 On compliance with the requirements set out in Rule 6.1, the Licensing Authority may, pursuant to section 143A(2) of the Transport (Compliance and Miscellaneous) Act, grant one WAT Fixed-Term Licence to a Phase 2 Applicant.
- 6.2.2 Where the Licensing Authority grants a WAT Fixed-Term Licence to a Phase 2 Applicant, a certificate of licence will be issued by the Licensing Authority, in accordance with section 143A(9) of the Transport (Compliance and Miscellaneous) Act.

6.3 Failure to meet the requirements of the Licensing Process

- 6.3.1 Where a Phase 2 Applicant fails to meet the requirements of the Licensing Process, the Licensing Authority must refuse the Application and remove the Applicant's Bid from the Pool of Ranked Bids.
- 6.3.2 Where a Phase 2 Applicant fails to meet the requirements of the Licensing Process, the Licensing Authority may, exercising absolute discretion, return to the Pool of Ranked Bids and select the highest ranked Bid that is not (or has not been) a Selected Bid to become a Selected Bid and send a Selected Bid Notice to the Applicant who submitted that Bid.

E. OTHER MATTERS

7. Refund of First Instalment or Licence Fee

7.1 Refund of First Instalment if an Applicant does not meet the requirements of the Licensing Process or withdraws an Application

7.1.1 In the event an Applicant who receives a Selected Bid Notice and pays the First Instalment for the licence and does not meet the requirements of the Licensing Process (fails to obtain accreditation as a taxi-cab licence holder or taxi-cab operator) and/or withdraws an Application, the Applicant will be refunded the First instalment amount within 28 days of being notified by the Licensing Authority that the Applicant has not met the requirements of the Licensing Process.

8. Withdrawal of Applications

8.1 How an Application is withdrawn

8.1.1 An Applicant may withdraw an Application at any time.

8.1.2 An Applicant may withdraw an Application by providing the Licensing Authority with written notice of the withdrawal of the Application.

8.1.3 An Application will be deemed to be withdrawn by the Licensing Authority from the date of receipt of the written notice provided under Rule 8.1.2.

8.2 Forfeit of Application Fee

8.2.1 Any Applicant who withdraws an Application will forfeit any Application Fee paid under Rule 2.3.

9. Suspension or cancellation of Application Process by Licensing Authority

The Licensing Authority may, exercising absolute discretion, suspend or cancel the Application Process at any time without granting a WAT Fixed-Term Licence.

HON. TERRY MULDER MP
Minister for Public Transport
Minister for Roads

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