



Victoria Government Gazette

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Subordinate Legislation Act 1994

PROPOSED NOTICE SPECIFYING CONDITIONS THAT ARE TO BE IMPLIED IN EVERY DRIVER AGREEMENT

Notice of Decision

I, Graeme Samuel AC, Chair of the Taxi Services Commission (TSC), give notice under section 12J of the **Subordinate Legislation Act 1994** that the TSC has decided to proceed, with amendments, with the making of a notice under section 162L(1) of the **Transport (Compliance and Miscellaneous) Act 1983** specifying conditions that are to be implied in every driver agreement (Notice).

The proposed Notice was subject to a Regulatory Impact Statement (RIS) seeking public comment. Sixteen submissions were received. Following consideration of these submissions, it is proposed that the following changes be made to the draft Notice proposed in the RIS:

Insurance (proposed condition 3)

- In all circumstances, the Operator must pay any applicable excess on a third party insurance policy for a taxi-cab driven by the Driver and also indemnify the Driver for any vehicle damage arising out of the Driver's use of the taxi-cab.
- The exemptions providing for the Driver to contribute to the excess in certain circumstances, and exemptions to the requirement for the Operator to indemnify the Driver, will be removed.
- It will be clarified that the Operator must hold the third party property insurance policy in the Operator's individual name only.
- The Operator must provide a copy of the insurance policy to the Driver on request, rather than being required to keep a copy in the taxi-cab at all times.
- The requirement to hold third party property insurance is to take effect from 30 September 2014, in order to facilitate the availability of insurance products to the market.

Bond (proposed condition 7)

- The circumstances in which the Operator may only make deductions from any bond collected from the Driver are narrowed to where the Driver fails to pay to the Operator his or her correct share of the fare box in accordance with section 162L(2) of the Act; and/or damage is caused to the taxi or any item of equipment by the driver's conduct. These amendments were made to facilitate greater clarity and certainty as to the circumstances in which deductions may be made from the bond, and to minimise complexities that may attach to negligence and misconduct, which were previously considered.
- The requirement to hold the bond in a trust account has been removed to simplify the administrative arrangements for holding the bond.
- The Operator must refund to the Driver the balance of the bond within 14 days of the driver agreement ending – previously no time frame was stipulated.

Record-keeping (proposed condition 1)

- The Operator must now provide the driver with copies of the records specified in proposed condition 1.2 at the end of each calendar month, to reduce any administrative burden while seeking to achieve the purpose of providing those documents to the Driver.

Other amendments have been made to simplify the Notice in terms of language and form, with the inclusion of examples, notes and the inclusion of clearer definitions.

Comments and submissions that were not adopted generally related to issues outside the scope of the proposed Notice; for example, matters that have already been legislated, or made suggestions that, if implemented, would be inconsistent with the policy intention behind the Notice.

SPECIAL

In addition to the reasons described, the TSC's reasons for proceeding with the Notice with the proposed changes are that it will address a significant issue with the taxi-cab industry identified by the Taxi Industry Inquiry, namely, a power imbalance between taxi-cab drivers and operators. It is expected that this will attract high quality drivers to the industry, resulting in improved taxi-cab services for the community.

Dated 13 June 2014

GRAEME SAMUEL AC
Chair
Taxi Services Commission

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