

TASMANIA

**TAXI AND LUXURY HIRE CAR INDUSTRIES
AMENDMENT BILL 2003**

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TAXI AND LUXURY HIRE CAR INDUSTRIES AMENDMENT BILL 2003

*(Brought in by the Minister for Infrastructure, the
Honourable James Glennister Cox)*

A BILL FOR

An Act to amend the *Taxi and Luxury Hire Car Industries Act 1995*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Short title

1. This Act may be cited as the *Taxi and Luxury Hire Car Industries Amendment Act 2003*.

Commencement

2. This Act commences on a day to be proclaimed.

Principal Act

3. In this Act, the *Taxi and Luxury Hire Car Industries Act 1995** is referred to as the Principal Act.

*No. 27 of 1995

Section 3 amended (Interpretation)

4. Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “application date”:

“assessed market value” means the assessed market value of a perpetual taxi licence determined in accordance with section 11;

- (b) by omitting the definition of “capped value”;

- (c) by inserting the following definition after the definition of “perpetual taxi licence”:

“radio room” means a room or other area used for –

- (a) accepting bookings for taxis from members of the public; and
- (b) transmitting messages by telecommunication to taxis;

Section 4 substituted

5. Section 4 of the Principal Act is repealed and the following section is substituted:

Intent and objects of Act

4. (1) The intent of this Act is, in respect of taxi services, to ensure the provision of a safe, demand-responsive, taxi transport system in Tasmania that adequately meets the needs of various groups in the

community in an orderly and commercially viable manner.

(2) The objects of this Act are as follows, in respect of each taxi area:

- (a) to ensure safe operating conditions for passengers and drivers;
- (b) to ensure appropriate minimum quality standards in the taxi industry;
- (c) to ensure the availability of adequate standard taxi services at reasonable prices;
- (d) to enable variation in taxi services to meet community demands at prices determined by market forces.

(3) The intent of this Act is, in respect of luxury hire car services, to ensure the provision of a safe, high-quality, personal hire transport system.

(4) The objects of this Act are as follows, in respect of luxury hire car services:

- (a) to ensure safe operating conditions for passengers and drivers;
- (b) to ensure appropriate minimum quality standards in the luxury hire car industry at a premium to standard taxis;
- (c) to clarify the respective roles of taxis and luxury hire cars.

Part 2, Division 3 substituted

6. Division 3 of Part 2 of the Principal Act is repealed and the following Division is substituted:

Division 3 - Establishing assessed market value**Valuer-General to determine and review assessed market value**

11. (1) The Valuer-General is to determine the assessed market value, as at 1 July 2003, of a perpetual taxi licence in each taxi area, excluding any goodwill associated with membership of a radio room.

(2) As at 1 July in every third year after 1 July 2003, the Valuer-General is to –

- (a) review the assessed market value in each taxi area; and
- (b) adjust each assessed market value in accordance with that review.

(3) The assessed market value in each taxi area is to be set out in the regulations.

Section 13 amended (Funds for taxi areas)

7. Section 13(1) of the Principal Act is amended by omitting paragraph (a).

Section 17 amended (Administration of funds for buy back of licences)

8. Section 17 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:

(4) In seeking tenders, the Commission must state that the maximum price to be paid for buy back will be the assessed market value.

Section 19 amended (Issue of perpetual taxi licences)

9. Section 19 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “may” and substituting “must”;
- (b) by omitting subsections (2) and (3) and substituting the following subsections:

(2) Before 31 March in each year, the Commission must make available for issue in each taxi area an additional number of perpetual taxi licences equivalent to –

- (a) 5% of the number of perpetual taxi licences in force in that area, rounded to the nearest whole number; or
- (b) one perpetual taxi licence –

whichever is the greater.

(3) A perpetual taxi licence made available under subsection (2) is to be offered for sale by tender.

(4) The Commission must not accept a tender that is less than the assessed market value in a particular taxi area.

(5) If, in any taxi area –

- (a) the average tender price for those perpetual taxi licences sold exceeds the assessed market value for that licence by more than 10%; and
- (b) all available licences for that area are sold –

the Commission must make available a number of licences, calculated in accordance with subsection (2), for sale by further tender as soon as practicable.

(6) If a licence made available under this section is not sold by tender, the licence may be sold for the assessed market value at any time before the next year's tender.

(7) Subject to subsection (8), this section commences 2 years after the day on which the *Taxi and Luxury Hire Car Industries Amendment Act 2003* commences.

(8) The Minister, by notice, may suspend the application of this section once for a maximum of one year after the expiration of the 2-year period referred to in subsection (7) in respect of a taxi area, if the Minister is satisfied that the requirements of Part 1, 1.2 of Schedule 1 to the *Disability Standards for Accessible Public Transport 2002*, formulated under section 31(1) of the *Disability Discrimination Act 1992* of the

Commonwealth, have not been met in respect of that area.

Section 20 substituted

10. Section 20 of the Principal Act is repealed and the following section is substituted:

Requirements for issue of perpetual taxi licences

20. The Commission must not issue a new perpetual taxi licence for a taxi area unless the applicant has been given information on the operation of a taxi business as mentioned in section 26.

Section 21 amended (Effect of perpetual taxi licences)

11. Section 21(a) of the Principal Act is amended by omitting “or carrying parcels not exceeding 50 kg in the aggregate in that area”.

Part 4B inserted

12. After section 23K of the Principal Act, the following Part is inserted:

PART 4B – WHEELCHAIR-ACCESSIBLE TAXI LICENCES**Interpretation of Part 4B**

23L. In this Part –

“motor vehicle” means a motor vehicle within the meaning of the *Vehicle and Traffic Act 1999*;

“registered” means registered under the *Vehicle and Traffic Act 1999*;

“small passenger vehicle” means a motor vehicle with a seating capacity of less than 13 adults, including the driver, that is designed and constructed primarily for the carriage of passengers;

“WAT licence” means a wheelchair-accessible taxi licence;

“wheelchair-accessible taxi” means a small passenger vehicle –

- (a) in respect of which a licence issued under this Part is in force; and
- (b) which is in accordance with Schedule 6.

Wheelchair-accessible taxi licences

23M. (1) The Commission may issue persons with licences, called wheelchair-accessible taxi licences, in respect of small passenger vehicles.

(2) A WAT licence authorises the small passenger vehicle specified in the licence to ply or stand for hire within, to or from a public street in the taxi area to which the licence relates for the purpose of carrying passengers or parcels in that area.

(3) A WAT licence does not prevent the vehicle specified in the licence from being used for private purposes and any other purposes authorised by virtue of its registration under the *Vehicle and Traffic Act 1999*.

(4) The holder of a WAT licence must not lease that licence to another person.

Penalty: Fine not exceeding 10 penalty units.

Number of WAT licences to be made available

23N. (1) The initial numbers of WAT licences to be made available are specified in Schedule 7.

(2) The Commission is to make available WAT licences in addition to those shown in Schedule 7 if –

- (a) after the initial release of WAT licences the Commission is satisfied that the response times for wheelchair-accessible taxis are not at least equivalent to the response times for perpetual taxis in a particular taxi area; or
- (b) application is made to the Commission for a WAT licence to be issued in a taxi area not specified in Schedule 7.

(3) If not all the licences specified in Schedule 7 are allocated within the period specified in that Schedule, the Commission is to make the unallocated licences available again after the expiration of the period.

Application for wheelchair-accessible taxi licence

230. (1) A person may apply to the Commission for a WAT licence.

(2) An application is to be –

- (a) lodged with the Commission; and
- (b) made on a form that the Commission has provided or approved for the purpose; and
- (c) accompanied by the prescribed fee; and
- (d) supported by such information or evidence as the Commission requires.

Issue and commencement of licences

23P. (1) The Commission is to issue an applicant with a WAT licence in respect of a motor vehicle if the Commission –

- (a) is satisfied that the vehicle is a registered small passenger vehicle; and
- (b) determines that the vehicle meets prescribed specifications as a suitable motor vehicle for operation as a wheelchair-accessible taxi.

(2) The licence may be issued on such conditions as the Commission determines, having regard to the objects of this Act in respect of wheelchair-accessible taxi services, including conditions relating to –

- (a) the area in which the vehicle may operate as a wheelchair-accessible taxi; and
- (b) the availability of the vehicle to wheelchair-reliant persons; and
- (c) the condition or standard of the vehicle.

(3) A WAT licence takes effect on the day on which it is issued and, unless forfeited or surrendered in accordance with this Part, it –

- (a) remains in force for a period of 10 years from that day; and
- (b) is renewable, at the discretion of the Commission.

(4) A new or renewed WAT licence is to be issued for a prescribed fee determined by the Commission.

(5) A WAT licence may be surrendered to the Commission at any time.

(6) The Commission may, on payment of a prescribed fee, issue a licensee with a replacement for a WAT licence that has been lost or destroyed or been damaged to an extent that renders it unsuitable for the purposes of this Part.

Variation of WAT licence conditions

23Q. (1) The Commission may vary the conditions of a WAT licence in accordance with this section.

(2) The Commission must –

- (a) give the licensee notice in writing of its intention to vary the licence conditions; and
- (b) give the licensee a reasonable opportunity to make representations to the Commission regarding the proposed variations; and
- (c) take any such representations into account in exercising its power under this section.

Passenger quotas

23R. The Commission may impose such conditions on a WAT licence, in respect of the minimum number of wheelchair-reliant passengers carried under that licence, as the Commission considers necessary or desirable to improve the response times for wheelchair-accessible taxis.

Transfer of WAT licences

23S. (1) The holder of a WAT licence may at any time apply as prescribed to the Commission to do either or both of the following:

- (a) have the licence transferred, temporarily or for the remaining life of that licence, to another person;
- (b) have the licence apply, temporarily or for the remaining life of that licence, to another motor vehicle.

(2) The Commission is to approve the application if the Commission –

- (a) is satisfied that the motor vehicle to which the licence is to relate is a registered small passenger vehicle; and
- (b) determines, in accordance with Schedule 6, that the vehicle meets the requirements for a wheelchair-accessible taxi; and
- (c) is satisfied, in a case to which subsection (1)(b) applies where the applicant is not the registered operator of the other vehicle, that the application is authorised by the registered operator of that vehicle.

Cancellation and suspension of WAT licences

23T. (1) The Commission, in prescribed circumstances, may suspend a WAT licence for a period not exceeding 3 months.

(2) The Commission, in prescribed circumstances, may cancel a WAT licence.

Delivering up of WAT licences

23U. A person who holds a WAT licence must, if given notice to do so by the Commission, deliver up that licence to the Commission at such time and place as the Commission by the notice specifies.

Penalty: Fine not exceeding 10 penalty units.

General offences

23V. (1) A person who holds a WAT licence must not contravene or fail to comply with the conditions of the licence.

Penalty: Fine not exceeding 20 penalty units.

(2) A person who does not hold a WAT licence must not hold himself or herself out to be the holder of such a licence.

Penalty: Fine not exceeding 20 penalty units.

(3) A person must not make a false or misleading statement to the Commission, or produce a false or misleading document to the Commission, in connection with an application or any other matter under this Part.

Penalty: Fine not exceeding 20 penalty units.

Section 27 amended (Regulations)

13. Section 27 of the Principal Act is amended as follows:

- (a) by omitting subsection (3);
- (b) by omitting from subsection (4) “capped price” and substituting “assessed market value”;
- (c) by omitting from subsection (5) “capped value” and substituting “assessed market value”.

Schedule 4 repealed

14. Schedule 4 to the Principal Act is repealed.

Schedules 6 and 7 inserted

15. After Schedule 5 to the Principal Act, the following Schedules are inserted:

**SCHEDULE 6 – REQUIREMENTS FOR
WHEELCHAIR-ACCESSIBLE TAXIS**

Section 23L

1. The Commission is to determine that a public passenger vehicle is a wheelchair-accessible taxi for the purposes of Part 4B if the vehicle meets the following criteria:

- (a) the vehicle must meet the standards for wheelchair-accessible taxis specified under the *Disability Standards for Accessible Public Transport 2002*, formulated under section 31(1) of the *Disability Discrimination Act 1992* of the Commonwealth;
- (b) the vehicle must have ramp entry and provide for a wheelchair-reliant passenger to sit centrally in the vehicle whilst seated in their wheelchair;
- (c) the vehicle at the time of introduction as a wheelchair-accessible taxi is to be –
 - (i) a new vehicle; or
 - (ii) any age up to 10 years if previously used as a wheelchair-accessible taxi in Tasmania;
- (d) the vehicle is to operate as a wheelchair-accessible taxi for a period not exceeding 10 years, commencing on the first day of registration;

- (e) any modifications to make the vehicle wheelchair-accessible must not significantly alter the original external appearance of the vehicle.

**SCHEDULE 7 - NUMBER OF WHEELCHAIR-
ACCESSIBLE TAXI LICENCES**

Section 23N

1. The initial number of wheelchair-accessible taxi licences to be made available in the first 2 years of licence issue is to be in accordance with the following table:

Taxi area	No. of licences to be made available in first year of issue	No. of licences to be made available during second year of issue	Total no. of licences made available after 2 years
Hobart	10	10	20
Launceston	4	5	9
Devonport	1	1	2
Burnie	1	1	2