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# Small Passenger Services Reform 2017

October 2016

Frequently Asked Questions

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## What are small passenger services?

Anyone carrying passengers for hire or reward in a vehicle designed to carry twelve or fewer people (including the driver) is operating a small passenger service. There is a list of special exceptions to this, such as car-pooling.

## What is happening?

The Government is overhauling small passenger services to remove outdated requirements and modernise the sector in line with technology and transport advancements.

## What is changing?

The Government has decided to simplify the requirements for small passenger services.

Currently there are separate categories and rules for taxis, private hire, and shuttles. Under the proposed changes, these services would be regulated under a single category of small passenger service, meaning one set of rules for all.

In addition, a person facilitating a small passenger service – a technology or app-based operator connecting passengers and drivers – which currently lies outside the licensing system, will be required to be licensed.

Some requirements that impose costs on operators, but no longer provide significant benefits, would be removed.

## What would the changes mean for different types of services?

SERVICE TYPE	SUMMARY OF CHANGES
Taxis	Taxis as currently defined will be covered by the small passenger service category. Some requirements will be removed – these are listed following as part of “What are the changes?” However, in practice taxis can choose to operate in much the same way as they do currently.
Technology or app-based operators who connect passengers and drivers	A technology or app-based operator that receives revenue from connecting a passenger with a driver will be defined as a small passenger service operator, and therefore will be required to become a small passenger service licence holder.

## What are the benefits of the proposed changes?

The changes simplify the regulatory framework, while maintaining a focus on safety for passengers, drivers, and vehicles.

CUSTOMER GROUP	BENEFIT
Owners and operators of small passenger services	<p>Able to compete on an even footing.</p> <p>Can differentiate their brand on aspects such as cost, service, environmental footprint and philosophy.</p> <p>More flexibility to deliver services using new technologies.</p> <p>Make their own business decisions on a range of issues.</p>
Consumers	<p>Increased competition for their custom.</p> <p>More choice due to a wider range of transport services to choose from.</p> <p>Continue to be confident that they can use these services safely.</p>
Drivers	<p>Continue to feel safe in their places of work.</p>

## Why are these changes being proposed?

The Government is a strong supporter of innovations that improve and enable all New Zealanders and businesses in New Zealand, traditional or otherwise, to enjoy the benefits of new technology.

We reviewed the regulatory framework for the operation of small passenger services. It had been in place since 1989 (with some changes subsequently, particularly in 2007). Since then, technology, the range of services offered, and consumer expectations have changed greatly. Our regulatory framework is no longer able to properly deal with the changes arising from the increasing use of smart phones and the introduction of ridesharing.

## When did the review take place?

In 2015, the Ministry of Transport undertook a review of the small passenger services regulatory environment to ensure that it continued to be fit for purpose and flexible enough to accommodate new technologies.

Further details about the review, public consultation, and government decisions can be found here: <http://www.transport.govt.nz/land/small-passenger-services-review/>

## How can passengers be confident that they can use services safely?

Under the proposed new system, the fundamentals of safety would be maintained:

- Drivers would continue to be required to hold a P endorsement and display a driver identification card.
- A fit and proper person check, including a police check, will be undertaken before a P endorsement is granted and drivers will continue to be subject to regular rechecks during the term of their P endorsement.
- Drivers must continue to operate within their work time limits.
- Vehicles will continue to be required to have a Certificate of Fitness.
- Vehicles operating within the 18 main urban areas will require an in-vehicle recording camera except in certain specified situations that are set out in the Rule.

## What legislation currently applies to small passenger services?

The provisions that apply to small passenger services are contained in the Land Transport Act 1998 and a range of Land Transport Rules and associated regulations.

The main Rules relevant to the operation of the services are *Land Transport Rule: Operator Licensing 2007* which can be found at <https://www.nzta.govt.nz/resources/rules/operator-licensing-2007/>, *Land Transport Rule: Work Time and Logbooks 2007* which can be found at <http://nzta.govt.nz/resources/rules/work-time-and-logbooks-2007/>, and *Land Transport (Driver Licensing) Rule 1999*. Amendments to the *Land Transport (Road User) Rule 2004* and further amendments to the *Land Transport (Driver Licensing) Rule 1999* are proposed to be made through the *Land Transport Amendment Bill*.

## Is the *Land Transport Act* being amended too?

Yes, provisions in the Act relating to small passenger services are being amended through the *Land Transport Amendment Bill* (the Bill) introduced into Parliament in September 2016 with submissions on the Bill closing on Thursday 27 October 2016. Any changes to the Bill may affect the final content of the Rules.

## What are the changes?

A person or organisation that carries on a small passenger service must have a small passenger service licence.

The proposed new rules remove a number of regulatory requirements that impose costs on operators, but no longer offer any significant benefits, including:

GROUP	SUMMARY OF PROPOSED CHANGES
For a small passenger service vehicle	Removal of signage requirements (including taxi top light and for hire signs, information about fares, mandatory branding, information supplied in Braille)
For a driver	Removal of the following requirements: <ul style="list-style-type: none"> <li>• an Area Knowledge Certificate (currently only required for a taxi driver)</li> <li>• a full licence test in the preceding five years</li> <li>• completion of a Passenger (P) endorsement course.</li> </ul>
For an operator or company	Removal of the following requirements: <ul style="list-style-type: none"> <li>• certificate of knowledge of law and practice.</li> </ul> For a taxi operator: <ul style="list-style-type: none"> <li>• mandatory membership of an approved taxi organisation</li> <li>• provision of small passenger services on a 24/7 basis</li> <li>• driver panic alarms, monitored 24/7 from a fixed location</li> </ul>
Large passenger services, rental services, vehicle recovery services or exempt services	No policy changes are proposed that affect these groups. The proposed Operator Licensing Rule contains requirements for the two classes of passenger services: large passenger services and small passenger services.  The main change is that all requirements common to more than one type of transport service (e.g. the complaints register) have been consolidated into Section 2 (Transport Service Licences).
For all	Updates to applicable offences and penalties

## Why is it proposed that these requirements be removed?

The review found that these requirements no longer add value. For example, GPS and mapping technology means that area knowledge is not as important as it was in the past. Removing these requirements means that the proposed regime will be more flexible, and reduces compliance costs. It encourages businesses to make their own decisions about what their services should include, depending on their customers' needs.

## What isn't being changed?

Retained under the new system would be provisions to ensure that passengers can feel safe, irrespective of the particular services they may be using; including:

CUSTOMER GROUP	SAFETY PROVISIONS BEING RETAINED UNDER NEW SYSTEM
For passengers	<ul style="list-style-type: none"> <li>• Drivers must hold a P endorsement and display a driver identification card.</li> <li>• A fit and proper person check, including a police check, will continue to be done before a P endorsement is granted.</li> <li>• The requirement to operate within their work time limits remains.</li> <li>• Drivers must operate under a small passenger service licence holder – it will be an offence for a driver to drive a small passenger service vehicle for hire or reward if they are not doing so for a licence holder.</li> </ul> <p>Note that drivers for third-party facilitated cost sharing services are exempt from some of these requirements.</p>
For drivers	Those that are operating within the 18 main urban areas will require an in-vehicle recording camera except in certain specified situations that are set out in the Rule.
Vehicles	Will continue to require a Certificate of Fitness.

## What are the additional requirements or duties of operators and drivers (existing and new)?

CUSTOMER GROUP	REQUIREMENTS
Operators in relation to drivers	<p>Operators will have seven duties in relation to drivers. These duties are to ensure that:</p> <ul style="list-style-type: none"> <li>• drivers have a current P endorsement</li> <li>• drivers comply with work time and logbook requirements</li> <li>• vehicles have a current CoF</li> <li>• drivers have a current identification card</li> <li>• operators maintain evidential records of the above four matters</li> <li>• the Transport Agency is advised of serious improper behaviour by a driver (e.g murder, attempted murder, sexual offences, abduction, kidnapping, robbery, and intent to cause bodily harm by injury)</li> <li>• assistance is provided with audits or investigations by the Transport Agency or NZ Police.</li> </ul>
Drivers	<ul style="list-style-type: none"> <li>• Comply with all applicable legislative requirements: <ul style="list-style-type: none"> <li>– must have held a full class 1 licence for at least two years before applying for a P endorsement</li> <li>– comply with work time and log book requirements.</li> </ul> </li> <li>• Hold a current P endorsement and display their NZTA-issued driver identification card.</li> </ul>

	<ul style="list-style-type: none"> <li>• Ensure their vehicle meets all applicable vehicle related requirements (CoF and loading).</li> <li>• Accept the first hire (except in special circumstances). Take the route most advantageous to the hirer.</li> <li>• Must not refuse a passenger, except in special circumstances (for example, the driver is concerned for their safety).</li> <li>• Agree the basis of fare in advance of the trip (e.g. meter, negotiation or via an app).</li> <li>• If requested, state the correct scale or basis for a fare that applies to the hire.</li> <li>• Issue GST receipts if registered for GST.</li> </ul>
Operators in relation to vehicles	<p>Operators within the 18 urban areas must meet one of two requirements:</p> <ul style="list-style-type: none"> <li>• all vehicles are fitted with an approved in-vehicle camera system; or</li> <li>• the small passenger service: <ul style="list-style-type: none"> <li>– only provides services to registered passengers</li> <li>– makes driver and passenger information available (for example, names and photographs of both driver and passenger)</li> <li>– makes driver and passenger information available before each trip</li> <li>– makes a record of the trip available (for example, GPS records).</li> </ul> </li> </ul> <p>There will be a number of specified exceptions to these requirements (see following section).</p>

## What is the exception proposed for in-vehicle recording cameras?

There are four criteria by which a small passenger services would not be required to have an in-vehicle recording camera. These are:

1. providing services to registered passengers only, and
2. collection of driver and passenger information, and
3. availability of driver and passenger information, and
4. retaining a record of each trip.

The Government considers that an adequate level of safety is provided where all these criteria are met; given exclusively pre-booked services have more information about their passenger's identities than non-pre-booked services — thereby alleviating safety concerns.

This flexible approach is designed to make sure there is not a disproportionate impact on businesses, which would otherwise face the considerable cost of installing in-car cameras.

Some exclusively pre-booked services, such as special occasion vehicle hire services will not be required to have in-vehicle recording cameras or to meet the four criteria listed above.



## What are the requirements for operators of facilitated cost sharing arrangements?

For third-party facilitated cost sharing arrangements, the third party would need to hold a small passenger service licence.

However, provided the service adheres with cost sharing, their drivers would not need to hold a P endorsement or meet work time requirements, and their vehicles would not need to have a Certificate of Fitness or, if operating in the 18 urban areas, be fitted with in-vehicle cameras.

## How are third party carpooling service affected?

A third-party carpooling service is different from a normal small passenger service, as the driver cannot be recompensed for more than the cost-recovery of running the vehicle.

Under the new system, a third-party facilitator may take a fee for its services.

## Would traditional carpooling between people who know each other, or services facilitated by local councils be affected?

No, existing exemptions would continue, for example, carpooling between people who know each other and council-facilitated services.

## What is a third-party facilitated cost sharing arrangement?

These are services that connect drivers and passengers who are travelling from and to similar points, on a cost-sharing arrangement basis (i.e. sharing fuel costs), by electronic app or other means. (However, it does not include the provision of an answering or call centre service.)

## Why do third-party facilitated cost sharing/carpooling operators have different requirements?

Carpooling has the potential to contribute to reducing traffic congestion and vehicle emissions. A traditional barrier to carpooling has been the ability to easily match drivers and passengers – third parties that facilitate this process can potentially play a significant part in overcoming this barrier.

We want to ensure the small passenger services regulatory system provides the right incentives to make sure that carpooling remains an inexpensive and easy transport option. It is important that regulatory requirements reflect this.

## Why has the term ‘approved transport operator’ been replaced with ‘small passenger service operator’?

During the review it was decided that ‘approved transport operator’ was too broad – it would potentially capture other services such as tow truck operations and large passenger services operations. As a result, we have decided to use ‘small passenger service operator’.

## Will there be a complaints register in the new regulatory system?

The current small passenger services system requires that operators of small passenger services have a complaints register and report serious allegations to the Transport Agency.

The Government has agreed that in the future, operators should be required to report allegations of serious improper behaviour to the Transport Agency and cooperate with any investigation or audit that we or the Police might perform. To support that, operators would also be required to maintain a record of complaints.

## **Why has the Passenger (P) endorsement course been removed?**

One of the aims of the small passenger services review was to lower the compliance burden. The P endorsement course was one of the requirements that imposed costs on a driver, but no longer provided any significant benefit. The course involves two components and typically costs between \$400 and \$700. The changes to the small passenger services system, particularly the removal of a number of rules the course refers to, means it will add little value in the future. Other relevant information provided by the course will be provided in other ways.

## **Will an applicant for a Passenger endorsement still have to sit a full Class 1 licence test if they have not passed a test in the five years preceding the application?**

No. The Driver Licensing Rule currently requires applicants for a Passenger endorsement to pass a full Class 1 licence test if they have not passed a test in the five years preceding an application. This requirement is proposed for removal because it imposes a cost on the driver, with little benefit. A fully licensed New Zealand driver is deemed to be competent to be on the road without having to sit on-going tests. This requirement is being removed for drivers of both small and large passenger services.

## **What about those operating outside the law?**

The sector will continue to be regulated by the Transport Agency and Police, and those who don't comply with the regulatory requirements will be subject to similar sanctions as currently exist (infringement fees, licence suspension and revocation, and court action).

## **What are the proposed changes to work time and logbook requirements?**

Currently taxi drivers must take a rest after 7 hours of continuous work time, which is documented in the taxi logbook. Drivers of other classes of vehicles must take a rest break after 5.5 hours of continuous work time, which is documented in a general logbook.

It is proposed that the work time requirements for taxi drivers will be extended to all small passenger service vehicles and the details documented in a new small passenger service logbook (unless they are in the mixed work situation where they also drive a different class of vehicle, such as a heavy truck, in a cumulative work day).

## **Will electronic recording of work time be allowed?**

The law currently allows the Transport Agency to approve electronic logbooks or work time records. No change to this existing provision is proposed.

## **How would fares be negotiated under the proposed new rules if meters are no longer compulsory?**

Use of a meter for calculating fares would no longer be mandatory though operators may still choose to use one. A driver would be expected to have agreed the basis of a fare (for example, whether calculated by a meter, negotiation or via an app) with a passenger in advance of the trip.

A driver would be required, if requested, to state the correct scale or basis for a fare that applies to a hire, and must not demand more than the exact amount of the fare payable.

## What happens if a passenger wants to dispute a fare? How will complaints be handled about fares?

Provided the fare or basis of the fare was agreed in advance of the trip, the Transport Agency will no longer investigate and take action in response to fare disputes between passengers and companies. Instead disputes would be addressed by existing mechanisms provided in the Consumer Guarantees Act 1993, the Fair Trading Act 1986 and contract law.

## Are the fees relating to small passenger services changing?

Based on the current policy proposals, the fee for an application for a small passenger service licence is expected to be similar to that currently charged for a Transport Service Licence application: \$449.80 inc. GST. The associated vetting fee of \$28.20 is not expected to change.

Approved taxi organisations would cease to exist under the policy proposals. This means that the fee currently charged for an application to be an approved taxi organisation (\$3,678.15 inc. GST) would be revoked.

## Making a submission

### What is the consultation process for the proposed changes?

The yellow draft consultation document is being released for comment. The opportunity to comment is being advertised in daily newspapers in the five main centres and in the New Zealand Gazette. Groups and individuals who have registered their interest in the Operator Licensing Rule and the Work Time and Logbooks Rules will be directly advised of the availability of the yellow draft for comment. They will be provided with a link to the consultation material on the NZ Transport Agency's website and invited to make a submission.

### How can I obtain a physical copy of the consultation document?

To obtain a physical copy of the consultation document or if you have any queries about it after reading the consultation material, telephone the NZ Transport Agency Contact Centre on 0800 699 000.

### Do the draft Rules give me all the information I need to fully understand what changes are proposed to the current principal Rules?

The proposed Rules should be read together with the current consolidated Rules.

The Overview document provides information about the amendments and why they are being proposed. This is intended to help put the proposed changes into context.

### Where can I get a copy of the current Rules?

The current Rules are available from selected bookshops that sell legislation or direct from the printers, Wickliffe NZ Ltd (telephone (06) 358 8231). Land Transport Rules are also available on the Transport Agency's website at [www.nzta.govt.nz/resources/rules/about](http://www.nzta.govt.nz/resources/rules/about)

## How can I make a submission?

You can submit your comments on the online submission form or send your submission by email to [rules@nzta.govt.nz](mailto:rules@nzta.govt.nz), or by post to:

Small Passenger Services Reform 2017  
Rules Team  
NZ Transport Agency  
Private Bag 6995  
WELLINGTON 6141

Submissions close at **5pm on Friday 18 November 2016**.

## What will happen after the consultation process?

The submissions received during the consultation period will be analysed and taken into account in preparing the final drafts of the Rules. The final Rules will be finalised in a parallel process alongside the passage of the Bill through to enactment and coming into force.