

## Bailment Agreements – Taxi and Minibus

### Introduction

The Director of Commercial Passenger (Road) Transport (the Director) grants and renews taxi and minibus licences to accredited operators under the *Commercial Passenger (Road) Transport Act* (the Act). A licence enables an accredited operator (the licence holder) to operate the vehicle endorsed upon the licence. The licence is subject to any conditions determined by the Director.

During 2017, the Northern Territory Public Accounts Committee conducted an inquiry into the practices of the taxi industry in response to complaints from industry sectors. As a result of this inquiry, Government committed to improving how the industry operated for the benefit of the community. This included clearly identifying the subleasing of licences as unlawful and mandating the use of written bailment agreements for all drivers of taxis and minibuses.

The taxi and minibus industries have traditionally used bailment type arrangements for driver engagement. This type of arrangement differs from that of an employer/employee relationship and allows the driver to operate the vehicle for a shift with more flexibility than if driving as an employee.

### Requirements for Bailment Agreements or Employment

It is a condition of a taxi and minibus licence that the licence holder (operator) has a written bailment agreement in place for each driver of their vehicle which covers each period of operation i.e. each shift. Alternatively, operators may choose to engage drivers as employees under national wages and award conditions.

Any bailment agreement in place must meet the minimum requirements as determined by the Director and as stated in this document. The minimum requirements ensure the operator maintains their obligations as the licence holder and promote transparency of operation through clearly identifying the roles and responsibilities of the licence operator and driver.

Where an operator fails to have in place a written bailment agreement which complies with the minimum requirements, the Director may suspend or cancel the corresponding licence and operator accreditation; additional penalties may also apply. Where a driver knowingly enters a bailment agreement which does not comply with the minimum requirements or has an arrangement outside of that agreement, the Director may suspend or cancel that driver's commercial passenger vehicle driving authorities e.g. identity card.

### Model Bailment Agreement

While licence holders and drivers can still negotiate various terms and conditions, the agreement must continue to comply with the minimum requirements.

To assist industry, the Department has published a model bailment agreement. Operators choosing to use this 'off-the-shelf' document can be confident their written agreements comply with the minimum requirements. Operators and drivers should note that where they choose to vary any term or condition in the model bailment agreement, they run the risk of it no longer meeting the minimum requirements.

### Minimum Requirements for Bailment Agreement

The below requirements have been approved by the Director as being the minimum requirements for bailment agreements and may be cited as such in demonstrating compliance with the relevant conditions of a taxi or minibus licence.

A bailment agreement must:

1. Be written in plain English and must clearly and succinctly define any exceptional or industry specific words or terminology;
2. Identify the vehicle/s to which the agreement relates by registration number and commercial vehicle licence (CVL) number;
3. Define the period the agreement is in effect, including the start date and end date;
4. Not contravene any law in place in the Northern Territory;
5. Clearly identify each party by name and:
  - a) in the case of a driver, the identity card number issued under the Act and the Driver Licence number, or
  - b) in the case of an operator, the accreditation number issued under the Act;
6. Ensure operational responsibility of the vehicle is not transferred from the licence holder to any other party. Operational responsibilities include, but are not limited to:
  - a) payment of all regulatory costs of the vehicle and operator accreditation, including vehicle registration, licensing fees and network fees where applicable, and ensuring these are appropriately maintained under the name of the licence holder;
  - b) the purchase of the vehicle and the fitting of any in-vehicle equipment necessary to the task of operating for hire or reward in that category e.g. fitment of taximeter, security camera equipment and EFTPOS terminal, schedule of fares;
  - c) the costs of maintaining and repairing the vehicle and ensuring it is fit for purpose to be operated by a driver for hire or reward in that category;
  - d) payment of any fines relating to vehicle (where not the fault of the driver);
  - e) record keeping and reporting to the Director as required under the Act and regulations; and
  - f) recruitment and management of drivers and corresponding bailment agreements.
7. Ensure the responsibility of each party is clearly defined, whereby any non-inclusion or omission of a responsibility in an agreement would deem the licence holder as the responsible party, unless a law in place states otherwise;
8. Preserve the inherent obligations of the licence holder to ensure that any vehicle endorsed on the licence is operated in compliance with licence conditions and the provisions of the Act, applicable regulation, standards and codes of conduct made from time to time under the Act that apply to operators;
9. Ensure each driver has no interest in the operation of the vehicle other than that of a driver;
10. Identify the start and finish times for each shift the driver is permitted to operate the vehicle – each shift must not exceed 15 hours in each 24 hour period; and
11. Specify the terms and conditions of the agreement, including:
  - a) grounds to vary and terminate the agreement;
  - b) payments and fees applicable to each party; and
  - c) reporting and notification requirements of each party.

## Resources

Listed below are resources that may provide assistance to you.

Information Bulletins and Forms: [nt.gov.au/driving/industry/cpv-information-bulletins-and-forms](http://nt.gov.au/driving/industry/cpv-information-bulletins-and-forms)

Legislation: [www.legislation.nt.gov.au](http://www.legislation.nt.gov.au)