

Western Australia

## **Taxi Amendment Act 2003**

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As at 15 Dec 2003

No. 72 of 2003

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## Taxi Amendment Act 2003

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Western Australia

## **Taxi Amendment Act 2003**

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**No. 72 of 2003**

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**An Act to amend the *Taxi Act 1994*.**

*[Assented to 15 December 2003]*

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Taxi Amendment Act 2003*.

**2. Commencement**

This Act comes into operation on the day on which it receives the Royal Assent.

**3. The Act amended**

The amendments in this Act are to the *Taxi Act 1994*\*.

[\* Reprinted as at 11 October 2002.]

**4. Section 3 amended**

(1) Section 3(1) is amended as follows:

- (a) by inserting after the definition of “Director General” the following definition —

“

“**lease**”, in relation to taxi plates, means to acquire, by virtue of a successful application under section 16(2), the right to use the plates for a period specified by the Director General;

“**lessee**”, in relation to taxi plates, means a person who acquires, by virtue of a successful application under section 16(2), the right to use the plates for a period specified by the Director General;

”;

- (b) by deleting the definition of “plate owner” and inserting the following definition instead —

“

“**plate holder**” means the owner or lessee of taxi plates;

”.

(2) Section 3(3)(a) is amended after “relation to a tender” by inserting —

“ or application ”.

**5. Section 16 amended**

Section 16 is amended as follows:

- (a) before “Taxi” by inserting the subsection designation “(1)”;
- (b) at the end of the section by inserting the following subsections —

“

- (2) Taxi plates shall also be offered for lease, with the invitation to apply to lease taxi plates specifying —
  - (a) the criteria to be met by the successful applicant;
  - (b) the period for which the plates are offered for lease;
  - (c) the periodic payments that are payable to lease the plates; and
  - (d) the conditions to be imposed on the operation of a taxi using the plates which are being offered for lease.
- (3) Taxi plates may be offered for lease under subsection (2) only if the issue of those plates under section 18 would not result in the total number of leased taxi plates issued under that section exceeding the relevant percentage of the total number of taxi plates (whether owned or leased) issued under that section.
- (4) Without limiting subsection (2)(a), taxi plates may be leased by an individual only if the Director General is satisfied that the individual —
  - (a) will be the owner and principal driver of the vehicle operated as a taxi using the plates;

- (b) subject to subsection (7), is not the owner, and has no interest in the ownership, of taxi plates; and
  - (c) is not the lessee of taxi plates.
- (5) Without limiting subsection (2)(a), taxi plates may be leased by the members of a partnership only if the Director General is satisfied that —
  - (a) a member of the partnership will be the owner and principal driver of the vehicle operated as a taxi using the plates (the “**owner-driver**”);
  - (b) each member of the partnership is an individual;
  - (c) each member of the partnership (other than the owner-driver) is related to the owner-driver; and
  - (d) subject to subsection (7), no member of the partnership —
    - (i) is the owner, or has an interest in the ownership, of taxi plates; or
    - (ii) is the lessee of taxi plates.
- (6) Without limiting subsection (2)(a), taxi plates may be leased by a corporation only if the Director General is satisfied that —
  - (a) a director or other person concerned in the management of the corporation, or a shareholder of the corporation, will be the owner and principal driver of the vehicle operated as a taxi using the plates (the “**owner-driver**”);
  - (b) each shareholder of the corporation is an individual;



- (c) each director or other person concerned in the management of the corporation, and each shareholder of the corporation, is related to the owner-driver;
  - (d) subject to subsection (7), the corporation —
    - (i) is not the owner, and has no interest in the ownership, of taxi plates; and
    - (ii) is not the lessee of taxi plates;and
  - (e) subject to subsection (7), no director or other person concerned in the management of the corporation, or shareholder of the corporation —
    - (i) is the owner, or has an interest in the ownership, of taxi plates; or
    - (ii) is the lessee of taxi plates.
- (7) Unrestricted taxi plates may be leased by an applicant who is not otherwise eligible to lease taxi plates because a person (in this subsection and section 18(1a) called the “**relevant person**”) is the owner, or has an interest in the ownership, of restricted taxi plates contrary to subsection (4)(b), (5)(d) or (6)(d) or (e) if the Director General is satisfied that, if the application is successful, the relevant person will divest himself or herself of the ownership, or interest in the ownership, of the restricted taxi plates before the unrestricted taxi plates are issued under section 18.
- (8) If the number of applicants who meet the criteria specified under subsection (2)(a) and are eligible under subsection (4), (5) or (6) exceeds the number of taxi plates that the Director General determines to be available for lease, the successful applicants are to be

selected on the basis of merit by the Director General having regard to —

- (a) the extent of an applicant's experience as a taxi driver;
  - (b) any conviction of an applicant of an offence under this Act or the *Road Traffic Act 1974* or an Act of another State or a Territory corresponding to either of those Acts;
  - (c) any infringement notice given to an applicant (and not later withdrawn) under this Act or an Act of another State or a Territory corresponding to this Act; and
  - (d) any other matter relating to an applicant's character or experience that is relevant to the operation of a taxi.
- (9) If the operation of subsection (8) does not enable a number of applicants to be distinguished from each other for the purpose of selecting a lesser number of successful applicants, the successful applicants are to be selected from the first-mentioned applicants by ballot.
- (10) In this section —
- “owner”**, in relation to a vehicle, has the same meaning as that given in section 5(1) of the *Road Traffic Act 1974*;
- “related”**, in relation to an owner-driver, means related by virtue of being —
- (a) the spouse or de facto partner of the owner-driver;
  - (b) a parent or child of the owner-driver; or
  - (c) a brother or sister of the owner-driver;
- “relevant percentage”** means —

- (a) 20%; or
- (b) if another percentage is prescribed by regulation, that other percentage;

“**restricted taxi plates**” means taxi plates used on a taxi that may operate only during specified times or within specified parts of a control area;

“**unrestricted taxi plates**” means taxi plates other than restricted taxi plates.

- (11) A regulation prescribing the relevant percentage shall not come into effect until such time as the regulation is no longer capable of being disallowed pursuant to section 42 of the *Interpretation Act 1984*.

”.

## 6. Section 17 amended

- (1) Section 17(1) is amended as follows:
  - (a) after “tender” in each place where it occurs by inserting —  
“ or application ”;
  - (b) in paragraph (c) before “disclose” by inserting —  
“ in the case of a tender, ”.
- (2) Section 17(2) and (3) are each amended after “tender” by inserting “or application”.

## 7. Section 18 amended

- (1) Section 18(1) is amended as follows:
  - (a) after “tender” in each place where it occurs (except in paragraphs (a)(ii) and (b)) by inserting —  
“ or application ”;
  - (b) after “tenderer” in each place where it occurs by inserting —

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- “ or applicant ”;
  - (c) in paragraph (a)(ii) after “tender” by inserting —  
“ or joint application ”;
  - (d) in paragraph (a)(ii) after “tenderers” by inserting —  
“ or applicants ”;
  - (e) in paragraph (a) by deleting “of taxi plates;” and inserting instead —  
“ or lessee of taxi plates, as the case requires; ”;
  - (f) in paragraph (b) after “tender” by inserting —  
“ or apply ”;
  - (g) after paragraph (b) by deleting “and” and inserting —  
“  
(ba) that, in the case of an application for taxi plates, the applicant is eligible under section 16(4), (5) or (6), as the case requires; and  
”;
  - (h) before “issue the tenderer” by inserting —  
“ , subject to subsection (1a) and section 16(8), ”.
- (2) After section 18(1) the following subsections are inserted —
- “
- (1a) If section 16(7) applies and without limiting subsection (2), the Director General may issue a set of taxi plates in respect of the application only if satisfied that the relevant person has divested himself or herself of the ownership, or interest in the ownership, of the restricted taxi plates.
  - (1b) For the purposes of subsection (1a), the applicant is to provide the Director General with any information or documents that the

Director General may require, including information verified by a statutory declaration.

”.

- (3) Section 18(2)(a) is amended after “tendered” by inserting —  
“ or the first periodic payment for the lease ”.

**8. Section 19 amended**

- (1) Section 19(1) is amended by deleting “plate owners” and inserting instead —

“ plate holders ”.

- (2) Section 19(2) is repealed and the following subsection is inserted instead —

“

- (2) If a payment in respect of an annual fee is not made within 30 days of the due date for that payment, or such other date as the Director General may allow, the right of the plate holder, or each plate holder, to those plates is forfeited to the Director General, and those plates may then be offered for sale or lease, as the case requires, in accordance with section 16.

”.

**9. Section 19A inserted**

After section 19 the following section is inserted —

“

**19A. Periodic payments for leased taxi plates**

- (1) The periodic payments for taxi plates that are leased are payable by plate holders at the times and in the manner determined by the Director General.
- (2) If a periodic payment is not made on or before the due date for that payment, or such other date as the Director

General may allow, the right of the plate holder, or each plate holder, to those plates is forfeited to the Director General, and those plates may then be offered for lease in accordance with section 16.

”.

**10. Section 21 amended**

Section 21(1) is amended after “owned” by inserting —

“ or leased ”.

**11. Section 23 amended**

(1) Section 23(1) is amended after “an owner” by inserting —

“ or lessee ”.

(2) Section 23(2), (3) and (4) are repealed and the following subsections are inserted instead —

“

(2) Where a plate holder fails to satisfy the Director General in accordance with subsection (1), the Director General may serve notice on the person —

(a) in the case of an owner of taxi plates — requiring him or her to divest himself or herself of any interest in the ownership of taxi plates within 45 days after the day of service of the notice (the “**divestment period**”); or

(b) in the case of a lessee of taxi plates — advising him or her of the effect of the relevant provisions of subsections (3) and (4).

(3) Where a person fails to divest himself or herself of his or her interest in the ownership of taxi plates within the divestment period or a person is served with a notice under subsection (2)(b) in relation to the leasing of taxi plates —

- (a) his or her right to the plates is forfeited to the Director General —
- (i) if he or she has appealed under subsection (4) — on the making of a decision that confirms the Director General’s decision or that otherwise results in the forfeiture of that right; or
  - (ii) otherwise on the expiry of —
    - (I) in the case of an owner of taxi plates — the divestment period; or
    - (II) in the case of a lessee of taxi plates — the period specified in subsection (4);
- and
- (b) if he or she was the sole plate holder, the plates may then be offered for sale or lease, as the case requires, in accordance with section 16.
- (4) Where the Director General serves notice on a person under subsection (2), the person may within 14 days of service of that notice appeal to a Local Court against the Director General’s decision that he or she is no longer fit to be an owner or lessee, as the case requires, of taxi plates.

”.

## 12. Section 23A inserted

After section 23 the following section is inserted —

“

### 23A. Forfeiture of leased taxi plates

- (1) If this section applies to a lessee of taxi plates the lessee forfeits to the Director General the right to the

plates, which may then be offered for lease in accordance with section 16.

- (2) This section applies to —
- (a) an individual who leases taxi plates if —
    - (i) the individual becomes the owner, or acquires an interest in the ownership, of taxi plates; or
    - (ii) the individual ceases to be the owner and principal driver of the vehicle operated as a taxi using the plates;
  - (b) the members of a partnership who lease taxi plates if —
    - (i) a member of the partnership becomes the owner, or acquires an interest in the ownership, of taxi plates; or
    - (ii) no member of the partnership is the owner and principal driver of the vehicle operated as a taxi using the plates;
- and
- (c) a corporation that leases taxi plates if —
    - (i) the corporation, or a director or other person concerned in the management of the corporation, or a shareholder of the corporation, becomes the owner, or acquires an interest in the ownership, of taxi plates; or
    - (ii) no director or other person concerned in the management of the corporation, or shareholder of the corporation, is the owner and principal driver of the vehicle operated as a taxi using the plates.



”.

**13. Section 24 amended**

After section 24(4) the following subsection is inserted —

“

(5) Taxi plates that are leased are not transferable.

”.

**14. Section 25 amended**

Section 25(1) is amended by deleting paragraphs (a) and (b) and “or” between them and inserting instead —

“

- (a) if a lessee of taxi plates does not make another successful application under section 16(2) before the expiry of the period for which the plates were leased — the expiry of that period;
- (b) the forfeiture of the right to those plates under section 19(2), 19A(2) or 23A; or
- (c) if, as a result of forfeiture under subsection (3) of section 23, those plates may be offered for sale or lease in accordance with section 16 — the forfeiture of the right to those plates under that subsection.

”.

**15. Section 30 amended**

Section 30(5) is amended by deleting “7 days” and inserting instead —

“ 14 days ”.

**16. Section 37 amended**

Section 37(1) is amended as follows:

- (a) by deleting paragraph (d) and inserting the following paragraph instead —

“

- (d) a tenderer or applicant;

”;

- (b) after “owner” by inserting —

“ or lessee ”;

- (c) after “service,” by inserting —

“ as the case requires, ”.

**17. Section 41 amended**

- (1) Section 41(2)(c) is amended after “sale” by inserting —

“ or lease ”.

- (2) Section 41(5) is amended as follows:

- (a) after paragraph (d) by deleting “and”;

- (b) after paragraph (e) by deleting the full stop and inserting —

“

; and

- (f) all expenditure, other than expenditure referred to in paragraphs (a), (b), (c), (d) and (e), lawfully incurred for the purposes of, or in meeting the costs and expenses of the administration of, this Act.

”.

**18. Various references to “plate owner” amended**

The provisions listed in the Table to this section are amended by deleting “plate owner” in each place where it occurs and inserting instead —

“ plate holder ”.

**Table**

s. 3(1), definition of “operate”, paragraph (b)	s. 23(1)
s. 19(3)	s. 25(1)
s. 20(2)(a)	s. 32(3)
s. 20(2)(b)	s. 32(4)(a)
s. 20(3)	s. 32(6)
s. 20(4) (in 2 places)	s. 33(b)
s. 21(1)	s. 43(1)
s. 22(1)	s. 47(2)(a)
s. 22(2)	s. 47(2)(b)