

Australian Taxi Drivers Association

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Draft Passenger Transport Regulations 2007 ATDA Submission

A year after they were required to be revised, the Ministry of Transport issued a draft set of Regulations to cover all modes of Public Passenger Transport, together with a 'Regulatory Impact Statement'. There was a month available for public comment and then the new Regulations will be gazetted on September 1st. Consultation will be limited and certainly will not redress the major errors.

The ATDA is concerned firstly at the brevity of the process – perhaps we are the only ones interested. But that these drafts are proposed substantially on the basis that there are no material changes such as would have a cost impact, and that any other regulatory arrangements would be either too difficult to enforce, cost too much or be incapable of being self regulated by the industry, is a nonsense.

Notwithstanding two murders, innumerable and unmeasured assaults and countless fare evasions, there is nothing new to protect taxi drivers, nor to reflect community concern as to the welfare and safety of both drivers and passengers.

And these continue to be very sloppy regulations, poorly drafted and unbelievably lengthy.

Here are our comments ...

Part I Regulatory Impact Statement.

The underlying rationale for the extensive regulatory framework is that the Ministry is giving itself legislative effect to control the provision of passenger transport services, and to exercise care, management and control over both service providers and users. It notes that the service provider is more fully informed and the user is less informed, but that passengers have an expectation that they will be transported in a safe, reliable and timely manner.

The agreed objective is to ensure that a passenger hailing a random taxi will have a safe trip.

But do we really need a hundred and thirty three pages of regulations to achieve that result ?

Statistics.

Hawkless Consulting and the Ministry of Transport refer to the size and scope of the Taxi Industry on erroneous data sourced from the NSW Taxi Service website, as being 175 million passengers and 7 kms per trip. It would assist if there were independent and accurate data on which to base the process. The ATDA suggests 65 million trips and 6 kilometers.

Age of Driver and Increased Risk to Passenger Safety.

There appears to be a preoccupation with the notion that older drivers are more likely to be the cause of accidents due to sudden, age related, and incapacity. Whilst cars are the major transport mode related to road injuries there is no supplied data that identifies increased risks due to driver age. Certainly there are no teenage taxi drivers, but there is nothing to suggest in the RIS that age is an accident factor. Anecdotally it well may be so, but there is no substantiation to hand.

Vehicle Defect Report

A per shift cost of \$20, or about 30 minutes has been identified as the cost of a bus defect shift report. A similar cost must be noted for the taxi driver in completing his worksheet, and IPART may hopefully take that up as a driver cost. But is a worksheet really necessary ?

Regulatory Enforcement

By Ministry staff, or the Director General himself. Can his powers to delegate extend to persons not in the employ of the Crown ? Just who is an “authorized officer” ?

Taxi Driver Obligations

“No material changes”

Passenger Obligations

“No material changes” – and certainly nothing to reduce fare evasions or assaults.

Operator Obligations

“No material changes” – a restatement of Clause 125, a remark on a Manual of Inspection Standards, and a claim that these are fully implemented and enable operators to acquire compliant and consistent vehicles.

Network Obligations

No “Impact Analysis” whatsoever. The following extract is from the 2007 RIS ...

The Regulation also outlines standards to be met and information to be provided by an applicant for authorisation to operate taxi-cab networks. These requirements are similar to those outlined in the general accreditation provisions for persons wishing to operate a public passenger services outlined in section 4.3.1 above.

Taxi-cab network operators also need to demonstrate their technical and managerial competence for the operation of the communication equipment necessary to maintain the network (e.g. licence to operate a communications network issued by the Australian Communications and Media Authority, availability of technicians to repair breakdowns, back-up service providers) and the training program and standard rules and procedures which will be adopted to ensure all network affiliates can use the network proficiently.

Network operators, once authorised, must also adhere to prescribed conditions of operation, such as:

- Ensuring driver safety by ensuring equipment that monitors duress alarms in taxi-cabs are being used;
- Child restraints are carried in at least 10% of the taxi-cabs on every day the network is being used;
- Adequate secure storage facilities exist for the handling of lost property; and
- Notification to the Director-General of network affiliates within prescribed timeframes.

The Regulation also outlines those circumstances where the Director-General may set a licence fee at less than the current value of the licence on the open market, e.g. to ensure a service is made available in an otherwise uneconomic area or to ensure a service is available to persons with disabilities.

Network Service Standards that were “interim” back in 1993, have been almost reworked and lost several times are now probably lost forever. The Key Performance Indicators are a mystery indeed.

Generally the RIS notes that there are no material changes between the proposed regulations and the existing regulations, and therefore a zero cost impact. It also notes that whilst the regulations could be amended to transfer responsibilities and accountability for optimal passenger services between the participants, that the cost and practicalities preclude such a change.

It notes the accountability on drivers, operators and networks to comply with appropriate standards and Codes of Conduct. It notes however that no such Codes of Conduct exist, and we remark that nor do any current ‘standards’ exist, other than as a ‘manual’ for Taxi Inspections.

Part II. The Draft Regulations

In this section the ATDA will outline the difficulties and complications perceived in the draft regulations proposed.

1. “authorized fare” is defined as including an applicable night time surcharge, but not a “radio booking fee” or “luggage charge” not the non-urban taxis “weekend and holiday surcharge”. A problem arises where the remuneration of the taxi driver is based on a percentage of the authorized fare but one which does not include the Tariff II [night-time] component.

authorised fare, in relation to the hiring of a taxi-cab, means:

- (a) if the hiring is not a multiple hiring, the amount chargeable for the hiring in accordance with the fare determined (or the arrangement for remuneration approved) by the Director-General under section 60A of the Act (including any applicable night-time surcharge), or
- (b) if the hiring is a multiple hiring—75% of the amount referred to in paragraph (a).

2. “duress alarm system” has a much wider meaning and implication than to merely to notify the location of a vehicle to another person or place. It should also include the camera system, and clarify responsibility for the operability of both. The regulations make no mention of audio recordings, nor of their existing incorporation into the alarm system.

duress alarm system, in relation to a public passenger vehicle, means a system by which the driver of the vehicle can, in a discreet manner, notify the location of the vehicle to another person or place.

3. Clause 11 / 18. Change of information. 18 1 (a) is inconsistent with Clause 11 which provides no requirement to advise maintenance location, by requiring advice of a change of address.

11 Applicant to have access to maintenance facilities for vehicles

- (1) The applicant must have access to adequate maintenance facilities for the vehicles intended to be used to provide the relevant service.
- (2) The applicant must provide the Director-General with full details of the premises at which the vehicles will normally be kept when not in use.

18 Changes to information provided

- (1) The operator of the relevant service must notify the Director-General in writing of any of the following changes:
 - (a) a change of address of the premises from which the service is carried on,
 - (b) a change of address of the premises at which the vehicles used to provide the service are kept.
- (2) The notification is to be given no later than 7 days after the change.

4. Clause 18. Vehicle Maintenance. The notes in the RIS are not consistent with the wording and requirements of this clause and are misleading. Plain reading of the regulations still require a specific and auditable maintenance plan. If at all, there should be a stricter regime in place for a public passenger vehicle than merely the vehicle manufacturers' maintenance standards, which generally do not provide for the extended usage of a taxi.
5. Clause 19. Records. It would be preferable that all records be kept for five years rather than only for two years, on account of other Legislative requirements *viz* Annual Leave, Long Service Leave. Worksheets are elsewhere noted as a record, but several Court actions has proven them to be an unreliable proof of shifts driven.

19 Records relating to operation of public passenger vehicles

A person who is or has been an accredited operator:

- (a) must keep in the English language any record required to be kept by the person under the Act or this Regulation, and
- (b) unless otherwise provided by this Regulation, must retain the record for a period of at least:
 - (i) in the case of a bus service—5 years after the date of the last entry in it, and
 - (ii) in any other case—2 years after the date of the last entry in it, and
- (c) must, on demand by an authorised officer, produce it in written form for inspection, and
- (d) must, if required by the Director-General in writing to do so, deliver it to the Director-General when required.

Maximum penalty: 10 penalty units.

6. Clause 25. Management of Public Passenger Services. The operation, supervision, safety checking of taxis at times inconvenient to the principal accredited operator are by industry custom not administered by an accredited operator. This clause does not have the clarity or intent purported by the RIS. Providing information and worksheets as required at the end of a shift is not always practicable

25 Management of public passenger services

An accredited operator must not suffer or permit any person other than:

- (a) a designated director or manager (if the accredited operator is a corporation), or
- (b) another accredited operator (if the accredited operator is not a corporation),

to operate, manage, supervise or administer the relevant service (except for, in the case of a corporation, a person appointed under any law to manage the affairs of the corporation).

Maximum penalty: 50 penalty units.

7. Clause 29. Criteria for Authorisation. The notes in the RIS are not consistent with the wording and requirements of this clause and are misleading. Generally the RIS refers to “criteria” as “standards” with an implication that certain standards exist.

29 Criteria for authorisation to drive public passenger vehicles

8. Clause 35. Dress and Conduct. A maximum penalty of \$2200 for an un-ironed or work-worn shirt after a twelve hour shift is just a bit extreme, explaining when sandals are ‘enclosed shoes’ might be difficult, but to be orderly, civil and behave with propriety in the real life situations that arise with a group of drunken louts, capable of murder and mayhem, is simply not possible. To comply with every “reasonable requirement of an authorized officer **or passenger**” is totally beyond effective compliance.

The ‘reasonableness’ of a requirement from an inebriated passenger, or one under the influence of drugs, and even directions from a harried Police Officer is subjective and in any event may well be covered by a legitimate refusal under another clause. (eg.Clause 146). But this clause would now drag taxi drivers into Court to defend themselves at great cost on really trivial matters. This clause is unreasonable and unacceptable.

When does this clause with 20 penalty points get chosen as a bureaucratic weapon over cabbies as against Clause 136 and a penalty of 5 points for not wearing a uniform ?

At an aggrieved persons whim ? When a cabbie is worried about his personal safety ?

A disobeyed direction at the Airport has 10 Penalty points, and that also is unreasonable (Clause 145) and a disobeyed direction from a Police Officer under Clause 149 has 5 penalty points. Whatever else the message is “ do what you are told or else ...”

35 Dress and conduct of drivers

The driver of a public passenger vehicle must:

- (a) be clean and tidy and wear clean and tidy clothes (including enclosed shoes) when driving the vehicle for the purpose of providing a public passenger service, and
- (b) behave in an orderly manner and with civility and propriety towards any passenger, intending passenger, driver of another public passenger vehicle or authorised officer, and
- (c) comply with every reasonable requirement of an authorised officer or passenger.

Maximum penalty: 20 penalty units.

9. Clause 37. Drivers to ensure vehicles are clean. There needs be a provision that the production of a receipt for the vehicle wash and clean within a twenty four hour period prior to inspection is sufficient to determine vehicle cleanliness. Traffic and road conditions, and the mere use of a vehicle make it impossible for the vehicle at all times to be in a state of absolute cleanliness. Such record should form part of the taxi worksheet, if a worksheet is to be retained. And what is so special about the Airport ?

37 Drivers to ensure vehicles are clean

The driver of a public passenger vehicle must ensure that the vehicle is clean and tidy.

Maximum penalty: 10 penalty units (in the case of an offence committed in the Sydney Airport precinct) or 2 penalty units (in any other case).

10. Clause 44. Drivers to notify DG of alleged offence. There needs be a provision that the driver is to be assured positively that his records do not retain any reference to an offence that is subsequently withdrawn, not proceeded with, or overruled in any way by a Court. Is not the link with RTA and Police sufficient to avoid this bit of bureaucracy ?

44 Drivers to notify Director-General of alleged offence

- (1) The driver of a public passenger vehicle must, in accordance with this clause, furnish the Director-General with written details of the following:

- (a) any alleged offence (other than a parking offence) with which the driver is charged by a police officer,
- (b) any penalty notice issued to the driver in respect of an alleged offence (other than a parking offence) that relates to the driving of a motor vehicle.

Maximum penalty: 10 penalty units.

11. Clause 45 / 46. Driver to hand over License / Authority. This clause needs to be clarified for the situation when an authorized officer requests the license or authority when the driver is legitimately away from the vehicle. viz In the Airport Holding Bay: and also to provide that the authorized officer cannot pass on the item to an unauthorized person.

And, since being stopped on Crown St, Surry Hills on June 13th Friday night and both Police Officer and MoT “authorised person”, required that I handed over my cards as the obligatory means of ‘producing’ same --- what is the difference ?? I was also gently reminded that cabbies had been busted and found guilty of an infringement when they simply showed / ‘produced’ their license in their wallet without removing it from the wallet !!!

45 Drivers to hand over driver licence for inspection

- (1) The driver of a public passenger vehicle must, at the request of an authorised officer, hand his or her driver licence to the authorised officer for inspection.

Maximum penalty: 5 penalty units.

- (2) In this clause:

driver includes a person who:

- (a) is occupying the driver seat of a vehicle that is on a road or road related area, or
- (b) is otherwise apparently in charge of such a vehicle.

46 Drivers to hand over driver authority card for inspection

The driver of a public passenger vehicle must, at the request of an authorised officer, hand the appropriate driver authority card to the officer for inspection.

Maximum penalty: 10 penalty units (in the case of an offence committed by the driver of a bus, taxi-cab or private hire vehicle in the Sydney Airport precinct) or 5 penalty units (in any other case).

12. Clause 55 (2) No Wilful Damage. Why should an authorized officer have any reason or justification to willfully damage a taxi or any other passenger vehicle ? If the vehicle is damaged inadvertently in the course of an inspection, that is quite a different matter to willful damage, and one that can be otherwise dealt with.

55 No wilful damage

- (1) A passenger must not wilfully damage any part of a public passenger vehicle.

Maximum penalty: 5 penalty units.

- (2) Subclause (1) does not apply to an authorised officer in the execution of his or her duty.

13. Clause 59. Driver to take action. Last Friday night, June 13th, a taxi driver was charged with assault when he tried to defend himself against a knife wielding passenger. Will this obscure clause now really help?

59 Driver to take action in relation to dangerous conduct

The driver of a public passenger vehicle is to take such action as is appropriate (for example, contacting the operator or the police for help)

if the driver believes on reasonable grounds that the conduct of a passenger is endangering the safety of any person.

14. Clause 108. WATS Change-over. Given that the WATS plate conditions are that the vehicle must be on the road for 10 hours each day of the year, this clause effectively precludes a WATS from operating two out. A night shift which starts at 5.00 pm is simply not worth while doing on Monday, Tuesday or Wednesday nights, for a bailee driver or his bailor. By making a two out operation unviable it also makes the life of a single owner driver unlivable. Or is there another agenda ? Until this year most WATS were one out owner operated; now with Lime there are WATS with two drivers.....

108 Wheelchair accessible taxi-cabs

An operator of a taxi-cab service that involves the use of a wheelchair accessible taxi-cab must ensure that the taxi-cab concerned:

- (f) is not subject to any change of drivers between the hours of 12 midday and 5 pm on any day.

Maximum penalty: 40 penalty units.

15. Clause 112 /113 /114. Duress Alarm, Vehicle Tracking and Protection Screens or Cameras. With two killings of taxi drivers within eighteen months it is unacceptable that these clauses have not been revised, updated or strengthened. Despite very public statements from the Minister for Transport, and the yet to be released Report from the Taxi Safety Taskforce, these clauses do not cover all taxi drivers in NSW. The legalistic restraint of the Passenger Transport Act only having application to the Newcastle, Sydney, Wollongong Transport districts is an anomaly, which has in no way been corrected by the (possibly improper) inclusion of the Gosford and Wyong Local Government Areas. What about the whole of New South Wales ?

There is a lack of any provision for the driver to test or check the accurate operation of the Vehicle Tracking System, or even of its operability. The lack of penalties on the bodies responsible for supervision and observation over the systems is, in the view of the ATDA, irresponsible. More specific comment on safety will follow.

112 Duress alarm systems

- (1) The operator of a taxi-cab that is connected to a taxi-cab network must ensure that the taxi-cab is fitted with an approved duress alarm system for taxi-cabs of that type.

Maximum penalty: 10 penalty units.

- (2) The operator must ensure that a taxi-cab that has a fully enclosed boot compartment is equipped with a lock release device that:
 - (a) enables the boot compartment to be opened from inside the compartment, and
 - (b) has a distinctively coloured and easily accessible handle, and
 - (c) is not able to be rendered inoperable from outside the compartment when the boot is closed.

Maximum penalty: 10 penalty units.

113 Vehicle tracking devices

- (1) The operator of a taxi-cab that:
 - (a) is operating in the Metropolitan, Newcastle or Wollongong transport district or within the City of Gosford or the Wyong local government area, and
 - (b) is connected to a taxi-cab network,must ensure that the taxi-cab is fitted with an approved vehicle tracking device.

Maximum penalty: 10 penalty units.
- (2) An approved vehicle tracking device is taken to be a mandatory duress alarm system of the kind required by clause 112 (1).

114 Driver protection screens and security cameras

- (1) The operator of a taxi-cab:
 - (a) that operates within the Metropolitan, Newcastle or Wollongong transport district or within the City of Gosford or the Wyong local government area, and
 - (b) that is connected to a taxi-cab network,must ensure that the taxi-cab is fitted with either an approved driver protection screen or an approved security camera system.

Maximum penalty: 10 penalty units.
- (2) The operator of a taxi-cab:
 - (a) that operates within the Metropolitan, Newcastle or Wollongong transport district or within the City of Gosford or the Wyong local government area, and
 - (b) in respect of which the operator has been exempted by the Director-General from the provisions of section 31G (a) of the Act,must ensure that the taxi-cab is fitted with an approved driver protection screen.

Maximum penalty: 15 penalty units.
- (3) A person must not wilfully:
 - (a) interfere with an approved driver protection screen fitted to a taxi-cab, or
 - (b) cause or permit any such interference,in such a manner as to remove or reduce the protection it affords to the driver of the taxi-cab.

Maximum penalty: 15 penalty units.
- (4) A person must not wilfully:
 - (a) interfere with any part of an approved security camera system fitted to a taxi-cab, or
 - (b) cause or permit any such interference,in such a manner as to prevent or impede the proper working of the system.

Maximum penalty: 15 penalty units.
- (5) Schedule 1 has effect in relation to any security camera system with which a taxi-cab is fitted (whether or not pursuant to this clause).

16. Clause 116. Prohibited Communication Devices. These devices, whatever they might otherwise be, cannot possibly be the “trunk radios” fitted in over six hundred of the taxis operating in Sydney. If they were, under the existing regulations they would have long ago been removed. If the regulatory authorities are so negligent and deficient in policing their own regulations, they can hardly justify seeking to frustrate passenger services better provided by the ‘trunk taxi groups’. Nor should Clause 169 (2) b be permitted to continue in the clear unwillingness by Networks to exercise managerial competence.

116 Fitting of prohibited communication devices

The operator of a taxi-cab must ensure that the taxi-cab is not fitted with a prohibited communication device.

Maximum penalty: 10 penalty units.

17. Clause 118. Taxis to be clean and operational. There are innumerable instances of the driver having infringed under related Clauses , but are there any recorded instances of an operator being similarly infringed, or even of a duality of notices having been issued? Will the Ministry be taking any action over the operator of the Taxi in which Mr. Robert Woodger was murdered, and in which newspaper reports of Police comment would appear to infer that the camera was not working ?

118 Taxi-cabs to be clean and operational

- (1) The operator of a taxi-cab must ensure that the interior, exterior and fittings of the taxi-cab are, at all times during which the taxi-cab is being used to provide a taxi-cab service, clean and undamaged and (in the case of fittings) duly fitted, securely in place, in good condition and fully operational.

Maximum penalty: 10 penalty units.

18. Clause 121. Signs and Lights. The roof sign, nor its top amber light cannot be seen from the rear of most if not all maxi-taxis. Whilst most hails do occur from the front of a vehicle, there is considerable difficulty that arises, and consequential anger that occurs when a taxi behind a vacant maxi cannot determine that the maxi is in fact vacant.

This clause is as dim as many taxi lights. Just what does the exemption provided by 121 (4) mean ? Do all, some, or which urban taxis have to have a red Tariff II (now a “night time” light) ? And why only urban taxis? Are non-urban passengers more alert, or are country cab drivers less suspect?

Clause 111 allows for a particular exemption to fit a non-compliant meter, but not, perhaps, for country taxis in general ? Clause 237 then permits a general exemption conditional on the observance of specified conditions. Which are ????

121 Signs and lights on taxi-cabs

- (1) A taxi-cab must be fitted with a roof sign:
 - (a) made of opaque plastic or some other substance approved by the Director-General, and
 - (b) enclosing a lamp capable of showing a white light, and
 - (c) displaying the word "TAXI" on the front and back of the sign in black capital letters at least 70 mm high.
- (2) The roof sign must have positioned on its top an amber lamp the light from which is capable of being clearly seen in daylight at a distance of 40 metres.
- (3) If a taxi-cab's area of operation is an urban area, the taxi-cab must also have positioned on the rear face of its roof sign (or in another position approved by the Director-General) a red lamp the light from which:
 - (a) is capable of being clearly seen in daylight from the rear of the taxi-cab at a distance of 40 metres at any point within an arc of 90 degrees (45 degrees on either side of the taxi-cab) extending from the middle of the roof of the taxi-cab, and
 - (b) is not visible from the front of the taxi-cab.
- (4) Subclause (3) does not apply to or in respect of a taxi-cab that is the subject of an exemption under clause 111 or 237.
- (5) In the case of a taxi-cab that is fitted with a taxi-meter, the lamp enclosed by the roof sign, the red lamp (if fitted) and the amber lamp must all be wired to the taxi-meter so that:
 - (a) while the taxi-cab is not for hire, all the lamps will be extinguished, and
 - (b) while the taxi-cab is available for hire, both the lamp enclosed by the roof sign and the amber lamp will be illuminated, and
 - (c) while the taxi-cab is engaged:

18. Clause 125 (i) Compliance when inspected. Since all Sydney taxis have been inspected many times over during the current application of this clause, and none have failed to pass that item of inspection which refers to "prohibited communication devices", it would be reasonable to conclude that existing "trunk radios" are not prohibited devices.

125 Taxi-cabs to comply with on-road standards when inspected

The operator of a taxi-cab must ensure that, at the time any inspection of the taxi-cab is carried out under Division 2 of Part 4C of the Act:

- (i) the taxi-cab is not fitted with any prohibited communication device, and

19. Clause 126. Advertisements. This Clause would appear to require that any and all advertisements or notices must be specifically approved for content, manner of display and positioning in or on the taxi. Fine. However, in the past, requests, letters and enquiries have met with either no response, or merely the comment that there are no records of approval for any advertisements or notices. Just how does an operator under this clause, or a driver under clause 135 (b) know whether or not a notice or advertisement has been approved?

126 Advertisements and notices in or on outside of taxi-cabs

The operator of a taxi-cab must not display, affix or install, or permit a person to display, affix or install, any advertisement or notice in or on the outside of the taxi-cab unless the advertisement or notice, the manner of its display and its location have been approved by the Director-General.

20. Clause 131. Drivers to be indemnified. In years of taxi driving, on several occasions of accidents, in numerous representations for drivers defending themselves against Insurance claims in accidents, and many occasions of inspection by authorized officers, I have yet to see evidence of the currency of any insurance policy in a vehicle. It would be nice to have this as an effective protection for the rights and interests of drivers.

131 Drivers to be indemnified

- (1) The operator of a taxi-cab must maintain insurance policies, and provide evidence of their currency, in accordance with this clause.
Maximum penalty: 10 penalty units.
- (2) The operator must maintain one or more policies that indemnify the driver for the time being of a taxi-cab in relation to any damage (including any excess payable on a claim) arising out of the use of the taxi-cab.
- (3) The policies must be maintained with a corporation authorised under the *Insurance Act 1973* of the Commonwealth to carry on insurance business.
- (4) The operator must provide an authorised officer, on request, with evidence that the policies are current.
- (5) The operator must ensure that evidence that the policies are current is carried in the taxi-cab at all times.

One Insurance Policy that appears to have gone by default, at least as can be concluded from IPART,s operators cost index, is a Public Liability Policy. It would also be 'nice' if a driver had the resources available to report breaches of the Passenger Transport Act, or of the Regulations, without fear of persecution or identification, by an operator or network.

21. Clause 134. Drivers Worksheets. Simply, why? The only functionality of a drivers worksheet is for revenue raising by authorized officers when it cannot be produced. And all too frequently the un-filled in reverse is also the subject of an infringement notice.

It has been determined as inconclusive as proof of bailing the taxi in several court actions for non-payment of entitlements. It is not available with duplicating carbon format as would enable the driver to maintain an equivalent record, and in any event, modern log-on systems provide all relevant information. The only proof of the security camera operability is by way of a light that confirms only that the light is operational.

134 Driver's worksheets

- (1) The driver of a taxi-cab must enter on a driver's worksheet:
 - (a) when beginning a driving shift:
 - (i) the driver's name, driver licence number and driver authority card number, the registration number of the taxi-cab and the name of the taxi-cab network to which the taxi-cab is connected, and
 - (ii) the date and time the shift began and the odometer reading at that time, and
 - (iii) a notation that the driver has checked to see whether or not any security camera system fitted to the taxi-cab is operating, if that is the case, and

- (b) when beginning a break of 30 minutes or more during a driving shift, the time the break began, and
- (c) when ending a break of 30 minutes or more during a driving shift, the time the break ended, and
- (d) when ending a driving shift:
 - (i) a brief description of any faults in the taxi-cab or its equipment that have come to the driver's attention during the shift, and
 - (ii) the date and time the shift ended and the odometer reading at that time.

Maximum penalty: 5 penalty units.

- (2) The driver of a taxi-cab:
 - (a) must, on demand by an authorised officer during a driving shift, produce his or her driver's worksheet for that shift for inspection, and
 - (b) must, at the end of each driving shift, give his or her driver's signed worksheet for that shift to the operator of the taxi-cab.

Maximum penalty: 5 penalty units.

- (3) For the purposes of clause 19, drivers' worksheets constitute records that the operator of the taxi-cab is required to retain.

22. Clause 135. Driver Behaviour. If the Meter Standards have been met, how can the driver display Tariff II (Now to be known as the "Night Time Rate") other than when applicable.?

What is the approved form of approval of content, display and location of an advertisement or notice, upon which a driver may rely in order to comply with this regulation.

To whom does a driver report the breach of this regulation, or of the regulation to not sell or offer to sell services or things to a hirer or passenger, and especially so in a situation where a Network or a provider of credit payment services induces to driver to so act.

On Monday night, July 16th at 6.07 pm an advertisement for the Car Wash at 72 Burrows Rd appeared on the CCN / Zero200 VDU in my Lime Taxi 5288. And for the last week has been repeated. Was it approved ? Has approval been sought for given for advertisements for Macquarie Mortgages that obscure vision through the rear of Lime Taxis ?

135 Certain behaviour prohibited

The driver of a taxi-cab must not do any of the following:

- (a) cause or allow the taxi-meter in the taxi-cab to display the night-time surcharge rate at a time when that rate is not applicable,
- (b) display, affix or install, or permit a person to display, affix or install, any advertisement or notice in or on the outside of the taxi-cab unless the advertisement or notice, the manner of its display and its location have been approved by the Director-General,
- (c) sell (or offer to sell) any service or thing to a hirer of, or a passenger in, a taxi-cab.

Maximum penalty: 5 penalty units.

23. Clause 137. Driver to remain with taxi. This clause permits a driver to move more than 3 meters from the vehicle with reasonable cause. He must however test and contest in Court the reasonableness of his actions, and at considerable financial cost to himself. Assisting with luggage is noted as a reasonable excuse. It is in fact an offence not to do so. Actually assisting a passenger, other than a WATS, disabled passenger, is not specified. Nor are acts of devotion or religious observance. Ablutions, or, at the least going to an adjacent public toilet to urinate are matters that must go to a Court for determination. In a set of regulations as exhaustive as this, could not a few basic exceptions and permitted reasons be included ?

This is about the only time where an Airport infringement is more serious.

137 Driver to remain with taxi-cab

- (1) The driver of a taxi-cab must not, without reasonable excuse, move more than 3 metres from the taxi-cab.

Maximum penalty: 15 penalty units (in the case of an offence committed in the Sydney Airport precinct) or 5 penalty units (in any other case).

- (2) This clause does not apply:

- (a) if the driver of a taxi-cab moves more than 3 metres from the taxi-cab for the purpose of loading luggage or goods into, or removing luggage or goods from, the taxi-cab, or
- (b) to the driver of a taxi-cab while the taxi-cab is in a holding bay in the Sydney Airport precinct.

24. Clause 140. Use of Taxi Network. Limitations need be put on the absolute requirements of this clause, such that the obligations are in respect of the operational integrity of the network and or the safety of drivers and not in respect of the networks commercial interests or its service standard obligations.

140 Use of taxi-cab network

The driver of a taxi-cab:

- (a) must use the taxi-cab's receiver in accordance with procedures for the taxi-cab network to which the taxi-cab is connected, and
- (b) must otherwise observe the published rules and by-laws of the network, and
- (c) must comply with all reasonable requests of the network in relation to the provision of taxi-cab services.

Maximum penalty: 5 penalty units.

25. Clause 141. Use of Prohibited Device. If the Ministry were pursuing its regulatory function of ensuring adherence to its Regulations, there would be no such devices fitted. But, in any event, does not the driver have a basic courtesy and obligation to assist a passenger or intending passenger ? Certain networks refuse already to accept a call from a driver to book a cab for a passenger. Ours must be a service industry offering passenger service, and employ any means available to better serve the public

141 Use of prohibited communication device

The driver of a taxi-cab must not use a prohibited communication device for the purpose of accepting a hiring or assisting a person to hire a taxi-cab.

Maximum penalty: 10 penalty units.

26. Clause 142. Destination Sign. Why not, in the midst of massive over verbiage, actually and simply state the type, size and material of an approved sign. And the wording. And the location. Would that really be so difficult, or is it necessary to obfuscate by requiring specific (and possibly individual) approval from the Director General ?

Why are other, non-CBD ranks, not in the limited list Are the passengers at Parramatta , Chatswood or North Sydney not of equal significance?. And what about the Airport ?

If anywhere, a split of destinations is most suited to the flow of passenger needs at the Airport Ranks. It may be less than optimal for traffic officers supervision, but are we not a Passenger service industry?

142 Display of destination sign on taxi-cab

- (1) A taxi-cab that is available for hire may display a sign (a *destination sign*), in accordance with this clause, showing the name of the locality to which the driver is proceeding.
- (2) The driver of a taxi-cab must not permit the taxi-cab to display a destination sign otherwise than in accordance with this clause.
Maximum penalty: 5 penalty units.
- (3) A destination sign:
 - (a) must be of a type, size and material, and
 - (b) must contain only the wording, and
 - (c) must be located in a position, approved by the Director-General.
- (4) A destination sign may be displayed only:
 - (a) while the driver is proceeding, for the purpose of terminating a driving shift, in the general direction of the locality shown on the sign between the hours of:
 - (i) 1.30 am and 4.30 am, or
 - (ii) 12.30 pm and 4.30 pm, or
 - (b) while the taxi-cab is standing between the hours of 1.30 pm and 3.30 pm in one of the following taxi zones in the City of Sydney:
 - (i) the taxi zone on the eastern side of Phillip Street between Bent and Hunter Streets,
 - (ii) the taxi zone on the northern side of Park Street between Pitt and Castlereagh Streets,
 - (iii) the taxi zone on the western side of Chalmers Street, south of Eddy Avenue, adjacent to Central Railway Station,
 - (iv) the taxi zone on the western side of George Street, between Alfred and Essex Streets, at Circular Quay.
- (5) The driver of a taxi-cab that is displaying a destination sign must remove the sign:
 - (a) when the taxi-cab is hired, or
 - (b) on arrival at the locality concerned, or
 - (c) at whichever of the following times is appropriate:
 - (i) 4.30 am or 4.30 pm,
 - (ii) 3.30 pm (in the case of a taxi-cab referred to in subclause (4) (b) that remains standing in the taxi zone concerned beyond that time),whichever of (a), (b) or (c) is the sooner.

27. Subdivision 2. Sydney Airport. Why is the Sydney Airport Precinct so favoured as to require special and a hugely more severe penalty regime than any other place. Why should not all major tourist and transport facilities be similarly advantaged? What special obligations does the Ministry of Transport owe to a Private Corporation. And more, the severity of penalties is bizarre in the extreme.

Certainly a possible fine of over \$5000 will safeguard the beneficial owner, Macquarie Bank, of the Sydney Airport Corporation Limited's right to the \$2.50 Taxi tax. But is it in any way justifiable as an improvement to passenger services. Penalties should be, at most, one 'penalty unit', and reliance placed on kerbside staff to monitor traffic flow.

How can a fine of over \$5000 be in any way justified for the very transient offence of accepting a hiring under circumstances very little different to those in which it is an offence not to so accept a hiring. The general regulations on 'touting' and the Airport's quite valid rules on "No Pick-ups", time limitations and staying with the vehicle are surely sufficient.

Subdivision 2 Drivers in Sydney Airport precinct

143 Driver to be hired only at specific zones

- (1) The driver of a taxi-cab must not accept a hiring in the Sydney Airport precinct unless, at the time the taxi-cab is hired, the taxi-cab is in a taxi zone.
Maximum penalty: 50 penalty units.
- (2) Subclause (1) does not apply in respect of a hiring that is made by means of a taxi-cab booking service.

28. Clause 146 (2) h. Driver to accept Hirings. This clause limits a driver to requesting only of an **intending** passenger that he is able to pay the estimated fare. There is no right to similarly require satisfaction of that ability of a passenger *en route*. And a many a cabbie has found, having a fifty dollar note waved at him is no guarantee that he will actually get the money at the far end.

146 Driver of taxi-cab to accept hiring

- (1) Subject to this clause, the driver of a taxi-cab that is available for hire must accept a hiring immediately when offered.
Maximum penalty: 5 penalty units.
- (2) The driver of a taxi-cab may refuse to accept a hiring:
 - (h) if the intending passenger cannot, on request, satisfy the driver that the person is able to pay the estimated fare.

29. Clause 147 Direction of a passenger to a network. This clause prohibits the driver from directing the passenger to a taxi-cab booking service as such, and several networks operate through contracted booking services as well as through their own communications processes.

147 Driver of taxi-cab not to direct a person to unauthorised network

If a person offers to hire a taxi-cab by means of a telephone call made to the driver of a taxi-cab and the driver refuses to accept the hiring for any reason, the driver must not, for the purpose of assisting the person to hire a taxi-cab:

- (a) direct or refer the person, or
 - (b) pass on any information about the offer,
- to a person or body other than an authorised taxi-cab network.

Maximum penalty: 10 penalty units.

30. Clause 148 Wheelchair work preference. The lack of any qualification as to the proximity of the wheelchair job offer is a major flaw in this clause. It is also a flaw which has been abused on many reported occasions by a network directing the pick-up of a Wheelchair job to a WATS many kilometers distant without any recompense for lost income.

148 Driver of wheelchair accessible taxi-cab to give preference to person using wheelchair

- (1) The driver of a wheelchair accessible taxi-cab that is available for hire must accept a hiring offered by a person using a wheelchair in preference to a hiring offered by a person not using a wheelchair.

Maximum penalty: 5 penalty units.

31. Clause 149. Police Direction. There needs be a requirement on the Police Officer directing a taxi to satisfactorily identify himself for possible later compensation to the driver. There should still remain a clear right to refuse to be directed to accept a drunk, disorderly or offensive person.

149 Police officer may direct driver to accept hiring

- (1) A police officer may direct the driver of a taxi-cab to accept a hiring, even though clause 146 (2) would otherwise allow the driver to refuse the hiring, but may not do so if the carrying out of the hiring would involve the driver in committing an offence (other than an offence against this Regulation).
- (2) The driver of the taxi-cab to whom such a direction is given must not, without reasonable excuse, fail to carry out the hiring in accordance with the direction.
Maximum penalty: 5 penalty units.
- (3) In the event that the driver of a taxi-cab carries out a hiring in accordance with a direction under this clause:
 - (a) the driver is exempt from any provision of this Regulation that would otherwise prohibit the driver from carrying out the hiring, and
 - (b) the police officer by whom the direction was given is liable to pay the driver, in addition to the authorised fare, reasonable compensation for any damage, injury, loss of time or other detriment consequent on the hiring.

32. Clause 150 (3) Manner of Pick-up. This clause which requires a pick-up or set-down of a passenger close to and parallel with the side of a carriageway has long been a major problem to taxi drivers. For the most part of Sydney, and at most times of day or night, the most that any taxi driver can do is to perform his taxi-cab services “ as close as practicable to the kerb in all the circumstances”. The nature of traffic, the lack of legal stopping places, and the demands of passenger make this clause no more than a revenue source for Government and in no way advantage the safety of the public, or the flow of traffic.

150 Manner in which hiring to be carried out

- (1) The driver of a taxi-cab:

- (a) must not refuse or fail to carry out punctually any hiring accepted, and
- (b) must drive the taxi-cab by the shortest practicable route to any place specified by the hirer that is within the taxi-cab's area of operation, unless the hirer requests that the taxi-cab be driven to that place by some other route.

Maximum penalty: 5 penalty units.

- (3) The driver of a taxi-cab must not stop the taxi-cab on a road or road related area for the purpose of setting down or picking up passengers

otherwise than close to and parallel with the side of the carriageway of the road or area.

Maximum penalty: 5 penalty units.

- (4) The driver of a taxi-cab:

- (a) must refuse to stop the taxi-cab at any place at which stopping the taxi-cab would be unlawful, and
- (b) may refuse to stop the taxi-cab at any place at which stopping the taxi-cab would be, in the opinion of the driver, unsafe.

33. Clause 153 (1) (b) and (3). Journey to Pick-up. If a taxi-cab is to be taken as “hired and not available for hire”, there should be no reason for the driver to not start the meter on acceptance of the hiring. The cost to the passenger covers the cost of dead running to the driver, and if the job is reasonably proximate to the taxi location this will not be an amount greater than the convenience offered to the passenger. Networks are under an obligation not to have procedures that disadvantage the public (Clause 181) so any excessive amounts can be met by the Network for excessive dead running required.

There is certainly a problem in that the person making a booking has ceased to be in direct contact with the booking service by the time that the driver is advised of a booking offer. It is almost universally impossible for the “hirer and driver to agree otherwise”, and this clause therefore needs amendment.

153 Journey by taxi-cab to pick-up point

- (1) If a taxi-cab travels to a specified place to convey a hirer or the hirer's luggage or goods from that place, the following provisions apply:
 - (a) the driver must, on arrival at the specified place, advise the hirer personally of such arrival or arrange for the hirer to be advised by telephone (but not by means of a text message) of the actual or imminent arrival of the taxi-cab at that place,
 - (b) unless the hirer and the driver otherwise agree, the hiring is to be regarded as commencing at the time the taxi-cab has arrived at the specified place and the hirer has been advised of its arrival, or at the time appointed for the arrival of the taxi-cab at the specified place, whichever of those times is the later,
 - (c) if a taxi-meter is fitted to the taxi-cab, the driver must set the taxi-meter in operation at the time the hiring commences,
 - (d) if the fares and charges determined by the Director-General include a booking fee, the booking fee is payable.

Maximum penalty: 5 penalty units.

- (2) Nothing in this clause requires the driver of a taxi-cab to comply with the request of a person to travel to another place to pick up a passenger, luggage or goods unless that person agrees to commence the hiring immediately.
- (3) While a taxi-cab is travelling to a specified place as referred to in subclause (1), the taxi-cab is to be taken for the purposes of clause 121 to be hired and not available for hire.

34. Clause 153 (1) a. Advise Hirer. Current Network practices are to advise by return SMS of a Taxi's arrival for an SMS booking. This clause seeks to impose obligations on the driver over which he has no control. More generally there needs to be an obligation on the booking service to advise the hirer in all cases of the arrival or imminent arrival of the booked taxi, and to identify the taxi number. There appears no particular reason to discriminate against modern communication processes.

35. Clause 154. Carriage of Luggage and Goods. The absurdity of these regulations is nowhere more evident than in this requirement to carry **on** the taxi cab any luggage or goods so required by a passenger. The clause in part (4) should also provide that the meter can operate on "waiting time" during the period of loading or un-loading of luggage or goods. We note the separate and distinct requirements on WATS (Clause 161).

In the context of Occupational Health and Safety requirements there needs to be a limit (25 kg) on the maximum weight of any one piece of luggage.

154 Carriage of luggage and goods

- (1) Subject to this clause, the driver of a taxi-cab must, when requested by a hirer, convey in or on the taxi-cab any luggage or goods.

Maximum penalty: 5 penalty units.

36. Clause 161 / 163 Operation of Meter & Fares. Correctly and logically, 161(e) should read that **after** termination of the hiring, and not **on** termination, as this would conflict with (3). Conversely 163 (2) should read **on** rather than **after**.

161 Operation of meter by taxi-cab driver

- (1) The driver of a taxi-cab to which a taxi-meter is fitted:
 - (a) must not set the taxi-meter in motion before the taxi-cab is hired, and
 - (b) as soon as the taxi-cab is hired, must set the taxi-meter in motion, and
 - (c) during any hiring, must keep the taxi-meter in motion, and
 - (d) during any hiring, must stop the taxi-meter for as long as may be necessary to prevent it from registering a charge during any period during which:
 - (i) a hirer in a multiple hire is paying the authorised fare for his or her hire and getting out of the taxi-cab, or
 - (ii) the taxi-cab is delayed for a reason mentioned in clause 163 (5), and
 - (e) on the termination of any hiring (other than a hiring that is not the last hiring in a multiple hiring), must operate the taxi-meter so that the fare indicators return to zero.

Maximum penalty: 5 penalty units.

37. Clause 163 (1) Fares for Taxi-cabs. A taxi driver must, by this clause, not demand or enter into an agreement to accept more than the authorized fare. He can, of course, always accept, or perhaps suggest, a gratuity. But, can a network or booking service quote a fare which the driver is required to accept, for a hiring within the area of operations?

163 Fares for taxi-cabs

- (1) The driver of a taxi-cab must not demand (or enter into an agreement to accept) more than the authorised fare for any hiring of the taxi-cab, unless:
 - (a) the taxi-cab is hired to convey a passenger to a place outside the taxi-cab's area of operation, and
 - (b) the fare is negotiated and agreed with the hirer before the start of the journey.Maximum penalty: 10 penalty units.
- (2) After the termination of a hiring (or on leaving the taxi-cab in compliance with a direction to do so), the hirer must pay to the driver of the taxi-cab the authorised fare for the hiring.
Maximum penalty: 10 penalty units.

38. Clause 163 (6 & 7) Fares for Taxi-cabs. Cleaning of a "soiled" taxi cab entitles the driver to recover one hours' waiting time, or \$65.00 on current rates. This is the same amount as a 'littering' fine for dropping a piece of paper in the street. It goes nowhere to pay for the cleaning of the cab, nor for the time or potential earnings lost by the driver. The minimum amount to cover the driver, or anybody else, for the fairly repugnant task of cleaning up drunken vomit should be at the very least \$100.00 for external cleaning of the vehicle and substantially more for the substantial cleaning and detailing necessary after internal soiling. Regrettably, the smell lingers on....

163 Fares for taxi-cabs

- (6) If a passenger soils a taxi-cab in such a manner that it would cause the driver to be in breach of the driver's obligation to ensure that the taxi-cab is clean and tidy, the driver is entitled to collect, and the hirer must pay, a cleaning fee equivalent to one hour of the waiting time fee determined by the Director-General under section 60A of the Act.
- (7) A hirer who fails to comply with the requirements of subclause (6) is guilty of an offence.
Maximum penalty: 5 penalty units.

39. Clause 164 to 171. **Division 4. Taxi Cab Networks.** This whole section is incorrectly entitled as "standards" and should be "criteria" for Network Authorisation. The Network standards are a completely different matter, and one which has been neglected since the 1993 Interim Standards. It would appear to be more than a sloppy piece of drafting, and be more a deliberate intention to minimize and make disappear the networks service standards and obligations.

Division 4 Taxi-cab networks

Subdivision 1 Authorisations to operate taxi-cab networks

164 Standards to be met, and information to be provided, by applicants for authorisation to operate taxi-cab networks

- (1) An applicant for authorisation under Division 6 of Part 4 of the Act (that is, authorisation to operate a taxi-cab network) must meet the standards set forth in, and provide the information required by, this Subdivision, to the satisfaction of the Director-General.

40. Clause 169 (2) (b) Managerial Competence. This clause refers to the ability and willingness to discipline network users. The specific case of "prohibited communications devices" that would seem to have been the targeted objective of "trunk radios" is a substantive instance of the inability and unwillingness of all authorized networks to discipline their user taxis.

On the basis of performance, all Networks should cease to have accreditation, or else the service to the public benefit of the use of the quasi network trunk radio systems must be acknowledged.

169 Applicant to have managerial competence to operate taxi-cab network

- (1) The applicant must satisfy the Director-General that the applicant has the necessary managerial skills and expertise to operate a taxi-cab network.
- (b) satisfy the Director-General that the applicant has the ability and the willingness to discipline any user of the network who fails to meet the standards or comply with the rules referred to in subclause (2) (a) (ii).

41. Clause 173. Continuing Capacity. This clause again would seek to cloak the "criteria" for authorization as "standards", and diminishes the requirements previously in place to meet, observe and report on performance standards.

173 Continuing capacity to operate taxi-cab network

The authorised taxi-cab network provider must continue to meet the standards set forth in Subdivision 1.

42. Clauses 172 to 182 Subdivision 2. Conditions of Authorisation. This section, in order to have any meaningful application, should and must have penalties in breach that reflect the seriousness of these conditions. The last two murders of taxi drivers in Sydney have indicated possible and or probable breaches of the duty of care in relation to driver safety by networks.

Subdivision 2 Conditions of authorisation to operate taxi-cab network

43. Clause 174 (c) Driver Safety. The duty of a network is extended to cover the production of video recordings by network equipment from any camera at all times in which the taxi-cab is in use. Cleverly, it does not put an obligation, in unequivocal or any terms, on the network to ensure that the camera is in the first instance capable of recording such images.

The ATDA is committed to the introduction of a taxi safety system that actively works to protect, as far as modern communication facilities are able, the safety of taxi drivers. The Camera Guidelines should be an effective part of these Regulations, and the current recommendation for live back to base transmission must be a clear requirement. (See Para 40 of Taxi Camera Guidelines)

174 Driver safety

The authorised taxi-cab network provider must ensure that:

- (a) the equipment of the network is maintained, and users of the equipment are trained, to a level that ensures, as far as is possible, the efficient operation of duress alarm systems in taxi-cabs and the prompt response of network operators when such a system is activated, and
 - (b) equipment that registers the activation of duress alarm systems in taxi-cabs is monitored at all times that taxi-cabs connected to the network are being used as taxi-cabs, and
 - (c) if any taxi-cab connected to the network is required by this Regulation to be fitted with an approved driver protection screen or an approved security camera system—the equipment of the network is capable of producing video recordings from any such camera at all times while the taxi-cab to which it is fitted is being used as a taxi-cab.
44. Clause 182. Performance Reports. Years and long deliberations by several Taxi Inquiries on the subject of Network Service Standards have been now reduced to this mealy mouthed ambiguity. This is the last and not least item in the 2007 Draft Regulations that deserves the utter condemnation and repudiation by any and all parties interested in the appropriate supervision of service to the public.

182 Performance reports

- (1) The authorised taxi-cab network provider must provide the Director-General, at the Director-General's request, with an accurate report on such aspects of the performance of the authorised taxi-cab network provider relating to the provision of taxi-cab services as the Director-General may specify when making the request.
- (2) Such a report must be made in the manner or format, within the time, and as frequently, as the Director-General may reasonably require.

Where are the Network Service Standards ?

And, as much to the point, where are the requirements on Networks to regularly and publicly disclose their performance against industry standards. Can a passenger reasonably expect a taxi to turn up for a booking within a reasonable period of time.

That was the primary and underlying justification for one hundred and thirty three pages of regulations as expressed by the Ministry of Transport in the Regulatory Impact Statement. Who left out the safety pin this time !!!

Part III What has been left out

The ATDA has gone further than comment on the draft Regulations as proposed unilaterally by the Ministry of Transport. We note below several clauses that need also be a part of the Regulations to better service drivers, operators, networks and the passenger public. Several of these clauses take account of changes in technology and current practice of which the Ministry appears unaware. In the near future there are developments in the manner of bookings, despatch and payment which render many of the provisions inappropriate, and yet which appear to be totally beyond the comprehension of those framing these drafts. Others go to the need to protect drivers against both fare evasions and from gratuitous violence against driver and taxi. We earnestly hope that our comments and suggestions will meet with a positive response.

We are however unfortunately aware that it may be, in the words of the Ministry, "all too late".

The section concerning taxi networks continues the inexplicable tradition of not having any penalties in breach. Why should taxi networks who fail to observe regulations not also be subject to monetary penalties ?

Where are the Service Standards that have on numerous occasions, within and without Parliament, been quoted, mentioned and promised to provide a responsible measure of passenger services on the Networks? Instead we have the surreptitious substitution of network criteria for network standards. Why have we had two regulatory revisions, and still no new Service Standards.

Where are the promised regulations for security cameras for all cabs in NSW. ??

And yet a driver who breaches a "published rule or by-law of a network" has a maximum \$550 penalty. How can the breach of a (private) taxi networks' rules, about whatever, be considered a breach of public regulations.

The following clauses suggested for insertion by the ATDA may require a bit of re-drafting. If included in these Regulations, our taxi industry would be advanced significantly, as would the safety of drivers and the opportunity to do their job in the security of a safer workplace. We still have considerable work to do to assist taxi drivers to do their job legally, and with proper access to the points where passengers hire cabs from, or for where they want to go. There is separate campaign to permit taxis to stop to pick-up and set-down in Bus Zones and No Stopping Zones where and when they can do so safely.

Clauses to be inserted with appropriate numbering sequencing, and penalty regimes.

- All taxis shall be fitted with a security camera system, which will be integrated with the Duress Alarm System and the Vehicle Tracking System.
- Termination of the hiring occurs on payment of the authorized fare by the tender of cash, or by the electronic acceptance of the transaction, or by the tender of a valid voucher account docket or card, or by arrival at the destination, whichever the latest.
- The driver may demand payment of the estimated authorized fare prior to the commencement, or during the hiring, in a situation where the driver forms the view or has reasonable doubts as to the passenger's intention or capacity to pay the fare, or requires determination of the validity of the means of payment intended by the hirer.
- Where payment of the fare is by way of a non-cash transaction (credit or debit card, account card or voucher) the driver may process the transaction prior to arrival at the destination in order to verify and or validate the transaction and thereby reduce waiting time otherwise payable by the hirer.
- Where the driver accepts payment of the authorized fare for any journey by way of an account card or voucher for which no on-line authorization is required, then he shall be entitled to recover from the card or voucher issuer the full amount of the fare.
- Where an on-line or other form of authorization is required and obtained, a contract of service relating to the provision of taxi-cab services is deemed to have been created between the driver and the card issuer, and the issuer of the card is obliged to make payment in full to the driver of the fare and any reasonable additional costs associated with the recovery of the fare.
- Where a booking has been accepted by a driver and the intending passenger does not proceed with the hiring, the driver shall be entitled to recover, through or from the taxi booking service, an amount equivalent to the authorized fare, including the booking fee, from the time of acceptance of the hiring to the time the hiring is abandoned by the booking service.

- Where a driver has been required to accept, or accepts, a booking in which the running costs to the pick-up point exceed one half of the estimated value of the hiring the driver shall be entitled to start the meter on acceptance of the hiring. The Network Booking Service shall ensure the consent of the intending hirer, and shall in any event be responsible for authorized fare charges that may arise. In the instance of a WATS booking, the Network Booking Service shall meet pre-arrival or 'dead running' costs.
- Where a booking has been made through a booking service the arrival of the taxi shall be advised to the hirer by the booking service.
- Where the driver has accepted a hiring with a quoted fare, that fare shall be the authorised fare.
- A driver will log on and log off at the start and end of his shift, and for any breaks in excess of thirty minutes, from the network communications system. Network records of driver shifts shall be kept for a minimum of five years, and shall be available, free of charge, to the driver or his operator.
- An operator shall be in breach of these Regulations if, as a bailor bailing taxis to a bailee driver, he fails to comply with the provisions of the Taxi Drivers Contract Determination (1984) concerning driver entitlements and conditions of bailment.
- A record and or log book shall be maintained, capable of being audited, of vehicle safety and inspection checks on at least a weekly basis. The checks shall include the Operators Roadworthiness Assurance Checklist, a check of the operability and accuracy of the GPS Tracking System and Duress Alarm, and a check of the Camera Security System (to the extent that its operability may be externally checked)
- Any defects observed by a driver shall be noted in the log book, and a sign off by the operator of corrective action taken be also recorded. The log book may contain evidence of currency of insurance policies.
- Failure by a driver to observe Network rules and by-laws shall only be a breach of these regulations in respect of published rules and reasonable requests that refer to the operational integrity of the network or the safety of drivers. Other matters that refer to the commercial interests or service requirements of the Network are matters for the networks own disciplinary procedures, which must be conducted with procedural fairness.
- The refusal by a hirer to pay the authorized fare on termination of the journey shall be a breach of these Regulations.

- Any passenger who, having hired a taxi, fails to pay the authorized fare on termination of the hiring, shall in addition to any penalties under the Regulations, shall still be required to pay the fare to the driver and in addition to recompense the driver and operator for any costs or loss of income reasonably consequent on such action.
- Any person who willfully or negligently damages any part of a taxi, or causes consequential damage to any other vehicle shall be liable to recompense the owner or operator of the vehicle for all expenses incurred, including demurrage charges, and the costs of court appearances, irrespective of any insurance coverage over the vehicle.
- Where a driver or operator requires verification or confirmation of any circumstances which involve an offence or breach of or prosecution of any person under these Regulations, applicable Act's or the Australian Road Rules, which may be provided by recordings, video, camera or audio from the taxi Camera Security System, or from the Duress Alarm System that such recordings will be made available without charge to the driver or operator, or to his accredited representative, by whomsoever has control over such recordings, subject to such requirements and conditions as protect the privacy of persons not the subject of the breach, offense or alleged breach or offense.
- The re-setting of the camera system, where necessary, after an alarm or series of alarms shall be done without charge to the driver or operator.
- An assault on a taxi cab driver shall be noted in these Regulations as being considered an "aggravated assault" within the meaning of the NSW Crimes Act and special consideration of this classification shall be made in sentencing a convicted offender.
- Any Network or Ministry records relating to a driver or operator shall be made available for inspection without charge to the subject person within seven days written notice. Any complaint which has not been substantiated within sixty days of notification shall be removed permanently from all records.
- A taxi cab network shall have on duty within the communications centre, at all times, a nominated and approved person trained and capable of handling situations of duress or emergency as may arise from taxi cabs. The system in place shall be capable of handling multiple such situations.

And how about a few definitions :

Who is an "Authorised Officer", and when can a person employed by a private enterprise be authorized to issue penalty notices.

Where is there any legislative clarity in linking "authorized fares" with both the fare and arrangements for remuneration. This is not about the drivers' remuneration or 'wages'; it is about what is expressly excluded elsewhere since the only authorized fare is the metered fare or the multiple hiring rates.

And, who is “tourist”, and what limitations are placed in reality on “TV” vehicles, which operate in unfair competition with taxi cabs. Can a bus pick-up from a private address, or only from a bus stop ?

And what about “e-tags”? Are they or are they not a required item of equipment in a taxi cab ?

Two years ago the Minister of Transport advised of legislative changes that would require the networks to ensure that all (Sydney) taxi cabs had an operational e-tag. Not a mention of this essential item anywhere in the new regs..... Perhaps it’s a Network Standard ?

If we are to have well over a hundred pages of Regulations, what is to be determined when taxis are, in effect, chartered out to local Councils for intra-council area Community Service pre-booked work. What regulation covers the placement of a Council Decal over the required Network Decals. And what regulation covers the operation of the meter in those circumstances.

What insurance coverage does a passenger have in the event of an accident which occurs whilst the vehicle is not “hired” ? Is the same insurance valid for the vehicle and or driver carrying passengers whilst “not for hire”. ?

Can a Network determine the fare to be charged, without the operation of the meter, on a “quoted” job within the taxis area of operations. ? If a Network can do so, why cannot a driver make a similar arrangement ?

Where are there provisions for a driver to recover the fare or costs associated with a breach of these Regulations by a passenger, or intending passenger. Is his private civil action the only option ? The ATDA would see a fund set up, out of Taxi Advisory Committee funds available for the industry’s betterment, to assist drivers. It is the experience of our Association that a significant majority of drivers who plead at Court in respect of infringements improperly issued have the charges dismissed. They win, but they also lose all the legal expenses and two shifts off the road. Getting back a fare after securing a conviction for fare evasion just doesn’t happen. Costs for injuries, time off, pain and suffering are not in the taxi drivers’ lexicon.

These draft regulations, overdue, badly framed and carelessly worded have been issued without industry consultation prior to the Regulatory Impact Statement. It would appear that the Ministry intends to have them gazetted as is, and in an exceeding sloppy state. The Ministry in fact now claims that ‘major’ changes or corrections such as we now suggest cannot be considered or made as it is, “now, with an RIS, too late.”

The draft Regulations have been framed without regard to the Minister for Transport’s public statements, and the deliberations of the Cook Report, the Taxi Taskforce Report or the Taxi Safety Taskforce Report, on having security cameras in all cabs in NSW. Who is in charge ??

Worse , there are implications of worse again to come.

The renaming, and re-describing, of the Tariff II component of fares, as a “night time” fare is of concern. This is at present a surcharge, in non-urban areas, that covers and reimburses drivers for staying out at times which otherwise are unrewarding, and includes weekends and public holidays. For urban drivers it is applicable between 10.00 pm and 6.00 am. The ATDA has long sought equity of application through IPART.

But now we have lost not only the nomenclature of Tariff II, and its substitution by “night-time” rate, (without definition), but have also lost the ability to switch the meter to that Tariff (see Schedule 2, Meter Standards, Part 1 Clause 2a). Has the Ministry decided to pre-empt the recommendations of IPART, to which it has never made a submission. ?

In recent years, and notwithstanding the Cook Interim Report, the existence of “Trunk Radio Networks” has been the subject of much interest. Quite unequivocally, the Cook Report noted the passenger service benefits served by the ‘trunks’, and the fact that they were created out of a passenger demand for better services. Several clauses of these regulations still would persevere with the notion of “prohibited communication devices”, presumably as a legislative means of removing this thorn from the sensitive paws of the networks.

However, the fact that after several years of regulatory prohibition, including multiple authorized inspections, certain supplementary communication devices are still in cabs, must be confirmation that these devices are not the prohibited devices with which the regulations are concerned. If they were, they would have been removed years ago.

All of this leads to the bigger question of why should so much authority and rights to exclusive dealings be given to a few “authorized networks”.....

The Ministry line, in the past, has been that to maintain accountability on passenger services, that the provision of services must be able to be audited and tracked. But the flaw in logic is that booked services account for about 7% of all taxi trips, and the audit trail for the vast balance of hirings does not come from network booking records. The audit trail exists from “vehicle tracking devices” which can record all movements, and which, properly integrated with video / audio / GPS recording both in-cab and on line, are the fundamental safety protection for driver and passenger.

Our ATDA issue is that the Safety equipment for all NSW taxis, promised by the Minister, and recommended by several Inquiries has not been provided by these Regulations.

The safety of passengers, drivers, the OH&S responsibilities of Operators, and the duty of care of Networks remains at risk. These Regulations, so far as Taxis are concerned, are a disgrace, and the ATDA urges our NSW Parliamentarians to set them aside pending an external review.

The Ministry of Transport has failed the people of NSW, passengers and taxi drivers alike. In the interests of our safety and of the responsible provision of public passenger transport, we demand a proper revision of Taxi Regulations.

Australian Taxi Drivers Association
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