

Taxi Service Bailment Agreements

What is a taxi service bailment agreement?

In the taxi industry, a bailment agreement is used as the basis of the business relationship between an accredited taxi operator (operator) and an authorised taxi driver (driver). It is an agreement between an operator and a driver for the bailment of a taxi and covers what payment will be given by the driver to the operator for the right to bail their vehicle for a period of time, as well as any other entitlements or obligations created and agreed to under the agreement.

Payment made by the driver to the operator to bail the taxi is either in the form of a percentage of takings through the taxi meter or a fixed amount for a fixed period regardless of takings (known as a set pay-in).

Legislative requirements

From 1 September 2011, all taxi service bailment agreements between operators and drivers for the bailment of a taxi must be in writing, must be signed by both parties and must include certain information. As well, set pay-in arrangements can only be entered into if the driver has held Queensland taxi driver authorisation for at least 12 months. A copy of a Queensland driver authorisation history can be obtained free of charge from any Department of Transport and Main Roads Customer Service Centre by completing Form F2121.

Unless the driver is an employee of the operator, these requirements apply to all taxi drivers and taxi operators in Queensland and penalties apply for non-compliance.

To view the legislative requirements, refer to Chapter 4A of the Transport Operations (Passenger Transport) Act 1994 and Section 146B of the Transport Operations (Passenger Transport) Regulation 2005 from 1 September 2011 at www.legislation.qld.gov.au. Additional information about the requirements for taxi service bailment agreements including a comprehensive list of common questions and answers can be found on the Department of Transport and Main Roads' website at: www.tmr.qld.gov.au.

Operator responsibilities

An operator is required to:

- ensure that a taxi service bailment agreement is entered into before a driver drives a taxi that the operator is responsible for
- ensure that the taxi service bailment agreement includes all the information that the legislation requires it to contain
- provide the driver with a copy of the taxi service bailment agreement
- keep an electronic or paper copy of the taxi service bailment agreement for the duration of the agreement and for at least 5 years from when the agreement ends

- provide the driver with, and keep a copy of, any changes to the taxi service bailment for the duration of the agreement and for at least 5 years from when the agreement ends
- only enter into a taxi service bailment agreement containing a set pay-in arrangement if the driver has held Queensland taxi driver authorisation for at least 12 months (continuously or accumulatively within the 5 years before the agreement is entered into)
- comply with a request from an authorised person to provide a copy of the taxi service bailment agreement, or a copy of a statutory declaration under the *Oaths Act 1867* stating the driver is an employee of the operator

Driver responsibilities

A driver is required to:

- ensure that a taxi service bailment agreement is entered into before driving a taxi that the operator is responsible for
- ensure that the taxi service bailment agreement includes all the information that the legislation requires it to contain

Information to be included in a taxi service bailment agreement

- The legislation prescribes certain information that must be included in a taxi service bailment agreement. This does not limit the taxi service bailment agreement from containing additional information, but it must include:
 - the date both parties signed the agreement
 - the name and address of both parties
 - the operator accreditation number
 - the driver authorisation number
 - the payment amount:
 - if payment is a percentage of takings through the taxi meter, the percentage to be paid (for example 50%); or
 - if payment is a set pay in arrangement, the amount and frequency of payment (for example \$500 per week).
- which party is responsible for fuel costs, and if the cost is to be shared, the amount or percentage of the cost required to be paid by each party
- whether or not the operator has personal injury insurance for the driver, and if so:
 - whether the operator agrees to maintain the insurance for the duration of the taxi service bailment agreement;
 - the expiry date of the personal injury insurance;
 - information about the personal injury insurance (product disclosure statement and schedule of cover); or how the driver can obtain this information from the operator.

- whether or not the driver will contribute to the cost of any insurance premiums or excess payable, and if so, the amount or percentage to be contributed.

A Model Taxi Bailment Agreement is available from the Department of Transport and Main Roads' website at: www.tmr.qld.gov.au.

Additional Information

The information contained in this bulletin has been produced as a guide to assist in the understanding of the legislation and policy. Clarification of any information in this bulletin may be obtained from the Department of Transport and Main Roads by contacting your local Passenger Transport office.

This bulletin is an interpretation of the relevant Acts, Regulations and Standard and should not be used as a reference to a point of law.

Copies of the *Transport Operations (Passenger Transport) Act 1994*, *Transport Operations (Passenger Transport) Regulation 2005* and *Transport Operations (Passenger Transport) Standard 2010* can be purchased from GoPrint.

The legislation may be viewed on the internet at www.legislation.qld.gov.au. Additional information about public passenger services is available on the Department of Transport and Main Roads internet site at www.tmr.qld.gov.au/information_bulletins.