

Industry Guideline

Driver Conditions in the Personalised Transport Industry

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1. How to use this guideline

Personalised transport services in Queensland

On 11 August 2016, the Queensland Government announced reforms to the personalised transport industry through *Queensland's Personalised Transport Horizon – Five Year Strategic Plan for Personalised Transport Services 2016-2021*. These reforms amended Queensland's personalised transport industry laws, allowing the Queensland community to choose from a range of innovative and flexible transportation solutions provided by:

- taxi vehicles
- limousine vehicles
- ride-booking vehicles

Taxi, limousine and ride-booking vehicles provide passenger trips in different ways and use a variety of different business models. This means drivers are likely to have different everyday work experiences depending on the service they provide. Drivers may also have additional responsibilities if they hold other roles in the personalised transport industry supply chain.

The purpose of this guideline

This guideline has been developed by the Department of Transport and Main Roads (TMR) for drivers within Queensland's personalised transport industry. It is designed to provide high-level guidance to people working as drivers, and does not include guidance for broader roles within the industry (such as an operator or licence owner). **It is not intended to replace existing onboarding or induction processes which are run by personalised transport operators.**

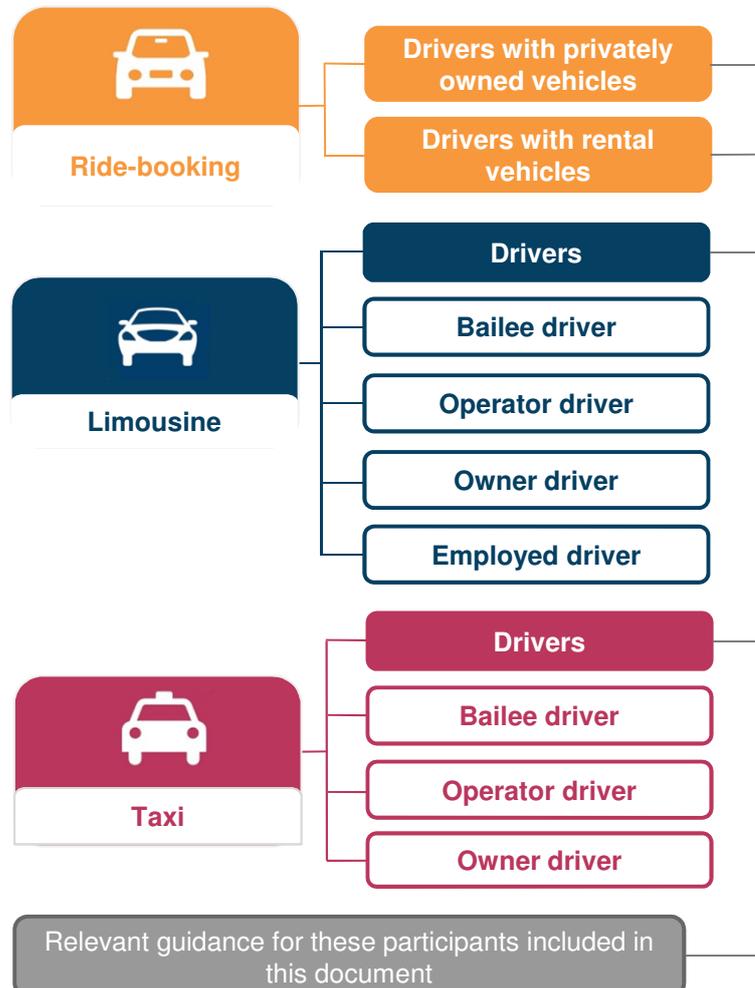
The guideline is intended as general advice only. Individual circumstances will differ and your situation may be different from what is described in this document. It is recommended that individuals seek their own advice where relevant to ensure they correctly understand their specific rights and obligations.

Structure

This guideline explains:

- how to know what type of driver you are, and why it's important
- the conventional working status of drivers in the ride-booking, taxi and limousine industries
- the different types of agreements in the personalised transport industry
- common obligations for drivers that are self-employed business persons
- where to go for additional information on common queries.

This guideline is intended to assist drivers





2. Working as a driver in the personalised transport industry

In Queensland's personalised transport industry, a driver will generally work as either a **self-employed business person** (this may be as an independent contractor) or an **employee**.

It is important to know what your working status is because self-employed business people and employees have different entitlements and responsibilities.

It can be difficult to know whether a driver is self-employed or an employee. Even if a driver is called a 'contractor', they may actually be an employee, depending on the situation.

The summary below is based on conventional industry practice. Your working status may differ depending on individual circumstances. If you're not sure whether you're a self-employed business person or an employee you should seek assistance from industry organisations, an independent ombudsman or government agencies, or obtain legal advice.

2.1 What type of worker am I?

There are different types of working arrangements in place across the personalised transport industry.

		
Ride-booking driver	Taxi driver	Limousine driver
<p>Ride-booking drivers generally enter into a written agreement with the provider of a ride-booking mobile application to access a digital technology platform.</p> <p>Ride-booking drivers are self-employed business people (generally an independent contractor).</p>	<p>Taxi drivers generally enter into written or verbal agreements to do work for one or more taxi operators.</p> <p>Taxi drivers are generally self-employed business people and in very limited circumstances drivers may work as employees.</p>	<p>Limousine drivers generally enter into written or verbal agreements to do work for one or more limousine operators.</p> <p>Limousine drivers are generally self-employed business people and in limited circumstances drivers may work as employees.</p>

2.2 Why does it matter?

Self-employed business people run their own business. Drivers who are self-employed generally set their own hours of work and don't have a minimum wage or pay rate.

Since self-employed business people are running a business, they need to make arrangements for:

- obtaining an Australian Business Number (ABN)
- registering for Goods and Services tax (GST)
- paying tax
- paying superannuation
- ensuring appropriate insurance arrangements are in place for the type of driving that you do

Before starting work as a personalised transport driver you should complete a budget to ensure you understand the outgoing costs that you are likely to incur. More information on common obligations can be found in Section 4 of this guideline.



3. Information about different types of agreements

The type of driving that you do may depend on whether you:

- own/lease vehicle
- rent a vehicle
- bail a vehicle

An overview of the different types of agreements drivers can enter into in order to provide personalised transport services are summarised below:

3.1 Ride-booking drivers

I want to provide booked-hire services in a vehicle other than a taxi or limousine and...

... I have my own vehicle

Services agreement

After the provider of a ride-booking application has reviewed the documents lodged by a prospective driver, the provider will send a prospective driver a copy of its **services agreement**.

A prospective driver must accept the terms and conditions of the services agreement before the driver can access trip requests.

Services agreements may cover:

- how fares and cancellation fees are calculated
- when payments to drivers will be remitted
- how the service fee payable to the ride-booking application provider is calculated
- service standards that drivers must satisfy, and where those standards can be found
- the driver's responsibility for maintaining:
 - insurance to satisfy the minimum requirements to operate a private passenger vehicle in Queensland
 - workers' compensation insurance as required by Queensland law

... I don't have my own vehicle

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Rental agreement

Some companies rent vehicles to drivers who do not have an eligible vehicle or do not want to use their own car. This arrangement is generally captured under a vehicle **rental agreement**.

Key features of a rental agreement to keep in mind include:

- the trade-off between the insurance premium included in the rental amount and insurance excess. Drivers should consider whether they can afford the out-of-pocket excess amount in the event of a claim
- unpaid rental fees are minor debts. Money owed by a driver to a rental company may result in the company seeking to recover the debt in the Queensland Civil and Administrative Tribunal (QCAT).



3.2 Taxi and limousine drivers

I'm a taxi driver or limousine driver and...

... I take and return a vehicle at the start and end of each shift

Bailment agreement

A **bailment agreement** allows a driver to take possession of a vehicle and use it to provide passenger transport services, while ensuring the owner of the vehicle retains legal ownership and right to have the vehicle returned. There are two common forms of bailment agreement:

1. Fee paid to operator based on percentage split of fare revenue

The driver agrees to pay a percentage of the chargeable fares to the operator. The amount paid to the operator is based on a **percentage split of total fare revenue**.

2. Fee paid to operator based on set pay-in

The driver agrees to pay a fixed amount to the operator. The amount paid to the operator is based on a **set amount paid up-front**, regardless of the amount taken in fares.

Other important terms in a bailment agreement

Drivers can also be asked to contribute money towards some of the other costs of operating a taxi or limousine, such as:

- fuel used per shift
- vehicle insurance
- personal injury insurance
- public liability insurance
- equipment

A bailment agreement does not have to be in writing. However, a written agreement may provide greater certainty regarding the terms of the agreement. It is suggested that drivers seek independent advice regarding which type of agreement (written or verbal) best meets their circumstances.

If you are unsure about the bailment fee, contributions to expenses or any of your other obligations, speak to the operator you have an agreement with.

... I take a vehicle for a longer period of time, or until a specified date

Lease agreement

A **lease agreement** allows a driver to take exclusive possession of a licenced taxi vehicle and use it to provide passenger transport services during the period of the lease.

Under a lease agreement, a driver will pay a fee to the lessor based on the lease rate for a particular period.

Unlike a bailment agreement, it is unlikely that a lease will allow the lessor or driver to end the agreement without reasonable notice. A lease agreement will usually contain a minimum notice period - the amount of time between one person telling the other that they would like the agreement to end, and the agreement actually ending.

There are different types of lease agreement

Whilst both fall under a lease agreement, **the lease of a vehicle is not the same as the lease of a licence** (sometimes referred to as a 'plate') by a licence owner to someone operating a taxi business or limousine business.

... I want to know more about bailment agreements

Department of Transport and Main Roads model taxi service bailment agreement

The Queensland Government no longer regulates the requirement for mandatory written bailment agreements between taxi operators and drivers.

The Department of Transport and Main Roads has published a model bailment agreement which may be utilised by operators and drivers.

A copy of the agreement is available on TMR's website for Business and Industry:

<https://www.tmr.qld.gov.au/business-industry>

Taxi Council Queensland standard bailment agreement

Taxi Council Queensland has published a standard bailment agreement which may be used by operators and drivers.

The agreement covers general terms and conditions for bailment. It covers topics such as 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 agreed to.

A copy of the agreement is available on Taxi Council Queensland's website: <http://www.tcq.org.au>



3.3 Employment agreements

In some limited circumstances, a driver in the taxi or limousine industry may receive a wage or salary in return for providing services for the benefit of an operator. This type of agreement is an employment agreement.

I'm a taxi driver or limousine driver and...

... I am required to drive at certain times and according to the rules set out by the operator, who pays me a wage

Employment agreement

An **employment agreement** is an agreement between an employer and an employee that sets out the rights and obligations of each party.

According to the Fair Work Ombudsman, an employee usually

- works standard or set hours
- has an ongoing expectation of work
- is paid regularly
- is entitled to received paid leave (for example, annual leave, personal/carers' leave)
- has their tax and superannuation handled by their employer.

For more information, visit the Fair Work Ombudsman's website: www.fairwork.gov.au

Employment agreements are unusual in the personalised transport industry. Most drivers perform their work in a way that is similar to an entrepreneur with their own small business. Drivers manage the vehicle during their shift and agree to share the fares received with the operator in return for use of the vehicle.



4. Common obligations

What you need to know about working as a self-employed business person

There are a number of rules and regulations to keep in mind when working as a self-employed business person.

The matters mentioned below are not exhaustive, but are a good starting point for all drivers who are self-employed - no matter what type of vehicle you drive (taxi, limousine, or ride-booking).

Find out what registrations you need:

If you plan to drive as a self-employed business person, you will need to complete a number of registrations.

Goods and Services Tax (GST)

Fares charged for services provided by drivers are GST inclusive.

Drivers are required to regularly pay the GST they collect to the Australian Tax Office (ATO). Note that the GST registration threshold¹ does not apply to self-employed drivers.

Drivers will need to register for GST from the day they start driving, regardless of how much they earn, and will be responsible for completing business activity statements.

For more information about GST obligations, you can:

- phone the ATO's Business Infoline on **13 28 66**
- visit the ATO website: **www.ato.gov.au/Business/GST**

Tax File Number (TFN)

Before starting to drive make sure you are aware of your tax obligations.

Drivers will need to ensure that they have a TFN appropriate for their operations:

- Drivers operating as a sole trader must use their individual TFN
- Drivers operating as part of a partnership, trust or a registered company will need to apply for a separate TFN

For more information about applying for a TFN:

- Sole traders can phone the ATO on **1300 720 092** for a paper application
- Partnerships, trusts and companies can apply at the Australian Business Register **www.abr.gov.au**

Australian Business Number (ABN)

You may require an ABN if you're carrying on an enterprise or you intend to register for Goods and Services Tax (GST). If you are a self employed driver, you must apply for an Australian Business Number (ABN).

An ABN is a unique way of identifying your business when dealing with a range of government departments and agencies.

For more information about registering for an ABN, you can:

- phone the Australian Business Register's information line on **13 92 26**
- visit the ABR website: **www.abr.gov.au**

Superannuation

If you are self employed, you do not have to make super fund contributions for yourself. However, you may want to consider this as a way of saving for your retirement.

If you are an employee, it is compulsory for your employer to make superannuation contributions on top of your wages.

For more information about Superannuation Guarantee obligations, you can:

- phone the ATO's Superannuation Infoline on **13 10 20**
- visit the ATO website: **www.ato.gov.au/Super**

¹ Most Australian business must register for GST if the business has a GST turnover (gross income) of \$75,000 or more. Businesses that provide taxi travel or ride-booking services must register for GST regardless of their GST turnover.



Know what type of insurance you need:

Self-employed business people are generally responsible for their own insurance cover. In some instances, the owner of a vehicle you bail, lease or rent may hold insurance policies that provide certain types of cover. You need to be aware of the different kinds of insurance you may need for the type of driving that you do (and whether an operator has taken out insurance that provides you cover).

Drivers who are self-employed may need to consider:

Compulsory Third Party (CTP) insurance

CTP insurance is mandatory in all states and territories and provides compensation for physical injuries caused by vehicles.

Vehicle owners must select the correct CTP insurance class for the service they are providing, or the vehicle they are using. Different CTP insurance classes may apply to:

- taxis
- limousines
- private or leased booked hire vehicles
- booked hire vehicles subject to rental agreements

CTP does not provide cover for any damage to the vehicle.

For more information about CTP insurance, you can:

- contact your insurance provider
- visit the Motor Accident Insurance Commission website: maic.qld.gov.au

Vehicle insurance

In addition to Compulsory Third Party (CTP insurance) there are other non-mandatory types of vehicle insurance which you may wish to consider if you own a vehicle.

Comprehensive insurance

Comprehensive insurance covers damage to your own vehicle and other people's property, as well as theft and some other risks, plus legal costs.

Fire and Theft

Fire and Theft insurance provides cover if your car is stolen, damaged by fire, or damaged by an uninsured vehicle.

Third Party Property only

Third Party Property insurance covers damage to other people's property and legal costs, but not damage to your own vehicle.

For more information about vehicle insurance, you can contact your insurance provider.

Workers' compensation and workplace personal injury insurance

If you have a business in Queensland and employ workers, you are required to insure them against work-related injuries with WorkCover Queensland.

The self-employed are generally not considered 'workers' and need to arrange their own insurance.

Whether you are covered by your employer-funded workers' compensation insurance or need to arrange your own workplace personal injury insurance will depend on your agreement and personal circumstances.

Personal accident insurance may be covered in your Bailment agreement. You should read the conditions of your agreement carefully and consider what insurance is needed to ensure that you are financially secure should any accident or illness prevent you from working.

For more information you can:

- phone WorkCover Queensland, **1300 362 128** or visit
- worksafe.qld.gov.au

Public liability insurance

Public liability insurance is designed to protect you against the financial risk of being found liable to a third party for:

- death or injury
- loss or damage of property
- monetary loss resulting from negligence or the provision of unsafe services

Whilst public liability insurance is not compulsory, the costs of being found liable or negligent can be extremely high. Where this is not included within your agreement, you should consider liability insurance to ensure you remain financially secure in the case of an incident.

For more information about getting the right insurance, you can:

- consult an insurance broker for more advice
- visit the Insurance Council of Australia website: <http://www.insurancecouncil.com.au>

Other insurance

As a self-employed business person, you should talk with a number of insurance companies or insurance brokers to find the most appropriate insurance for your business.

Insurance requirements vary considerably from business to business, and your individual circumstances and needs may benefit from other insurances not listed in this guide.



5. Where to go for more information

Where can I go to find out more about the licences and authorisations for driving?

Information about the qualifications and checks you need to complete to become a personalised transport driver in Queensland is available from the Department of Transport and Main Roads (TMR).

TMR also provides information on the regulatory requirements for the industry and any upcoming regulatory changes.

For more information about the requirements for providing a personalised transport service, you can:

- phone TMR on **13 23 80**
- visit the personalised transport page on TMR's website: www.tmr.qld.gov.au
- visit a local passenger transport office. Details of passenger transport locations can be accessed at: www.translink.com.au/contact-us

Where can I go for help in deciding whether I'm self-employed?

The Fair Work Ombudsman is an independent statutory agency that provides information about Australia's workplace relations system as well as help resolving workplace issues.

For more information about the Fair Work Ombudsman visit www.fairwork.gov.au or call **13 13 94**.

You can also use the Australian government's online *Independent contractors decision tool*, available through the Australian Government business website: www.business.gov.au or contact the Transport Worker's Union (TWU) on **1800 804 533** or visit www.twuqld.org.au for advice.

What if I have a dispute about my working conditions?

If a dispute arises between a driver and an operator about working conditions, the parties should meet and attempt to resolve the dispute. In the first instance, you should refer to your agreement which may provide guidance in relation to dispute resolution or, if represented, the Transport Worker's Union (TWU) may provide advice.

If, after the driver and operator have met to attempt to resolve the dispute and the dispute is not resolved, the parties may be able to access mediation services through the Queensland Civil and Administrative Tribunal (QCAT).

For minor civil disputes or minor debt disputes, a mediator can assist parties to discuss their differences and find a solution that suits them all.

For more information about how QCAT works and its processes, you can:

- phone QCAT on **1300 753 228**
- visit the QCAT website: www.qcat.qld.gov.au

You may wish to consider independent legal advice if you have a dispute about your pay or other working conditions. The Queensland Law Society may be able to refer you to a private lawyer or other services which may be able to help.

