

Review of the
Taxi and Luxury Hire Car Industries Act 1995

Paper 6 – Luxury Hire Cars

Department of Infrastructure, Energy and Resources

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This is the sixth in a series of discussion papers to be produced by the Department of Infrastructure, Energy and Resources about the taxi industry.

These papers will address issues that were identified during the work of the Taxi Industry Review Group established in 1999 to review Tasmania's taxi legislation, as well as issues of ongoing interest.

The purpose of these papers is to seek input on these issues from members of the taxi industry, through the Taxi Industry Reference Group, and other interested stakeholders.

The issues in this paper are presented for discussion and do not represent Government policy.

The work of the Reference Group and the input from stakeholders will contribute to a process of rewriting the Taxi and Luxury Hire Car Industries Act 1995 and making new regulations to replace the Taxi Industry Regulations 1996 and the Taxi Industry (Taxi Areas) Regulations 1996, proposed for 2007.

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1. Introduction

This paper is one of a series of discussion papers addressing issues that were identified during the work of the Taxi Industry Review Group, which was established in 1999 to review Tasmania's taxi legislation, and other issues of ongoing interest.

Recommendations from the Review Group resulted in the development of the *Taxi and Luxury Hire Car Industries Amendment Act 2003*, which was enacted in December 2003. The major features of the legislation included the requirement for new perpetual taxi licences to be made available every year, and the introduction of wheelchair accessible taxis (WATs). During the review several issues were identified that were outside the scope of the Review Group's Terms of Reference. These issues were to be addressed after the commencement of the new Act.

The Department of Infrastructure, Energy and Resources (DIER) has established a Taxi Industry Reference Group to provide advice on a range of issues affecting the industry, including the issues identified by the Review Group. Initially the issues considered by the Reference Group will be those which will inform a process of rewriting the *Taxi and Luxury Hire Car Industries Act 1995*, (the Act), the *Taxi Industry Regulations 1996* (the Taxi Regulations) and the *Taxi Industry (Taxi Areas) Regulations 1996* (the Taxi Areas Regulations) proposed to be completed in 2007. Further information on the Reference Group's work can be found in [Section 4](#).

A significant impetus for commencing this work is the *Subordinate Legislation Act 1992* (SLA), which regulates the making of regulations and other subordinate legislation. Subordinate legislation made under the SLA is repealed on the tenth anniversary of the date on which it was made. Under this provision, the Taxi Regulations and the Taxi Areas Regulations will be repealed in December 2006. These instruments therefore need to be replaced before that date. DIER intends to seek a 12-month extension to these regulations. This is to enable new regulations to be made under new legislation for the taxi industry.

This discussion paper relates to the interaction between taxis and luxury hire cars, both of which are regulated under the Act. Luxury hire cars are also regulated under the *Luxury Hire Car Regulations 2000* (LHC Regulations). While the LHC Regulations do not expire until June 2010, and there is therefore no legislative imperative to review them at this time, it is likely that some changes to these regulations will result from this review.

A significant issue for consideration in this paper is the distinction between luxury hire cars and taxis. The objects of the Act in respect of luxury hire cars differ from its objects in respect of

taxis, and include the objective to ‘clarify the respective roles of taxis and luxury hire cars¹’. This reflects the fact that luxury hire cars, in general, service a different market to the taxi market, and that they are intended to provide a service that is ‘at a premium to standard taxis²’. This caters for the segment of the market that prefers to travel in higher quality vehicles and pay for a higher quality of service than may be offered by a standard taxi service.

A number of areas in which the distinction between the two types of vehicle might not be clear have been identified. These issues have been of concern to both the taxi industry and the luxury hire car industry for some time. This paper seeks to identify these issues and, through consultations with the taxi industry (primarily through the Reference Group) and the luxury hire car industry, ensure that DIER has a full understanding of the scope of these issues, as the first stage in addressing them. DIER will use the information obtained from this process to develop recommendations, as part of the broader review of the legislation, on how the legislation should manage this issue. This paper therefore has a greater emphasis from DIER’s perspective on gaining an understanding of the issues than do other papers produced for this review of the legislation.

¹ *Taxi and Luxury Hire Car Industries Act 1995* (Tas), Section 4(4)(c).

² *ibid.*, Section 4(4)(b).

2. Background

2.1. Role of Government

The Government has an interest in the operation of the taxi industry as part of the passenger transport network insofar as it contributes to 'an effective internal and external transport and communications system that meets and responds to Tasmania's needs³'. To enable this, the Government regulates the industry through the Act and associated Regulations.

The intent and objects of the Act provide an indication of the Government's position on the taxi and luxury hire car industries, and demonstrates how the two differ. The intent of the Act is, in respect of taxi services:

'to ensure the provision of a safe, demand-responsive, taxi transport system in Tasmania that adequately meets the needs of various groups in the community in an orderly and commercially viable manner⁴.'

The objects of the Act in relation to taxis are:

- (a) to ensure safe operating conditions for passengers and drivers;
- (b) to ensure appropriate minimum quality standards in the taxi industry;
- (c) to ensure the availability of adequate standard taxi services at reasonable prices;
and
- (d) to enable variation in taxi services to meet community demands at prices determined by market forces⁵.

The intent of the Act is, in respect of luxury hire car services, 'to ensure the provision of a safe, high-quality, personal hire transport system⁶'. The corresponding objects are:

- (a) to ensure safe operating conditions for passengers and drivers;
- (b) to ensure appropriate minimum quality standards in the luxury hire car industry at a premium to standard taxis;
- (c) to clarify the respective roles of taxis and luxury hire cars⁷.

Thus the Act has different intents and objects in respect of taxis and luxury hire cars. Both have a focus on safety and minimum quality standards. However, in relation to taxis, there is a strong focus on meeting the transport needs of the community at a reasonable price; whereas in relation to luxury hire cars the focus is on ensuring a premium high quality service. This reflects

³ Tasmania *Together*, Goal 1, Standard 3 (page 36).

⁴ Taxi and Luxury Hire Car Industries Act, Section 4(1).

⁵ *ibid.*, Section 4(2).

⁶ *ibid.*, Section 4(3).

⁷ *ibid.*, Section 4(4).

the Government's position that taxis are an important part of the public transport sector and supplement services provided by mass passenger transport providers, i.e. buses. For instance, they can provide transport outside normal operating times of other forms of transport and provide services in areas that are not served by other forms of public transport. They also provide transport to people that cannot access buses and other forms of transport.

This is in contrast to the role of luxury hire cars, which are not seen as providers of public transport in the same way as taxis. Luxury hire cars are intended to service that segment of the market that wants a very high quality personal service at a premium cost rather than a standard service. The availability of luxury hire cars in addition to taxis recognises that in the transport industry, along with most other service industries, customers are entitled to choose the level of service they require and to pay for that service accordingly. While many users will be content to use a standard taxi service, there will always be users at the higher end of the market who will prefer a higher quality, more personal and potentially more 'professional' service and will be prepared to pay a premium price for this, in the same way that they would pay for a higher standard of service in other areas

Unlike in the taxi industry, the role of Government in regulating luxury hire cars is not to ensure efficiency and effectiveness, because, as noted above, luxury hire cars are not considered to be essential public transport providers. However, the Government is responsible for ensuring the safety of passengers, drivers and other road users, as the unregulated use of any vehicle could have serious consequences for public safety.

The Government is also responsible for setting minimum standards for luxury hire cars and for clarifying the respective roles of luxury hire cars and taxis, which is a specific object of the Act in relation to luxury hire cars. This final objective has been a source of persistent concern for taxi operators, with DIER having received complaints about luxury hire cars operating as 'taxis' in some respects, such as using taximeters and being dispatched from a radio room when a taxi was requested, as well as allegations of luxury hire cars operating from taxi ranks. Although subsequent investigations by DIER were unable to substantiate these allegations, the concerns from taxi operators have persisted. Taxi operators have paid a higher licence price than luxury hire car operators⁸, and can access a greater range of work (e.g. taxi ranks) than that which is available to luxury hire cars. Thus for their higher outlay taxi operators can potentially earn income from a wider range of sources. Further, taxis are subject to more comprehensive regulations than luxury hire cars (e.g. the requirement to install security cameras). For these reasons there is a view from the taxi industry that if hire cars are to operate as taxis they should be subject to the same conditions and regulations as taxis.

⁸ In Hobart the assessed market value of a perpetual taxi licence at 1 July 2003 was \$81 750 and in Launceston \$43 800 (with actual market prices in these areas being significantly greater), compared to \$5 000 for a luxury hire car licence.

As a result, a major focus of this paper will be on ensuring that the roles of the two sectors are adequately distinguished. Section 3 outlines the main areas in which distinctions between taxis and luxury hire cars could be made. It seeks input from the industries as to what the major areas of confusion are and where issues need to be further clarified.

2.2. Taxi and Luxury Hire Car Industries Act 1995⁹

Regulation of luxury hire cars was brought into the former *Taxi Industry Act 1995*, which was subsequently renamed the *Taxi and Luxury Hire Car Industries Act 1995*, in 1999. Prior to this, luxury hire cars were licensed as public vehicles under the *Traffic Act 1925*. Under this legislation, luxury hire cars were regulated so they could be distinguished from taxis. Major features of this legislation included:

- a minimum fares of twice the standard hourly taxi detention rate (sometimes more), which was equivalent to a charge of \$40.00 per hour;
- a minimum hire period of one hour; and
- luxury hire cars could only undertake pre-booked work and were not permitted to stand for hire in public streets, to stand on taxi ranks or to accept hail work.

Luxury hire cars were able to carry passengers 'to, from or within' one of the three larger traffic areas, which were essentially based on the telephone districts. Vehicles were required to be of premium quality compared to standard taxis. The Department was able to apply its discretion as to the age of vehicles, although a general policy of a maximum age of ten years was stated.

The changes made in 1999 introduced new provisions for:

- licensing arrangements for luxury hire cars;
- licences to be State-wide and available in unlimited numbers at \$5 000 each;
- no minimum or maximum fare controls;
- prohibiting luxury hire cars plying for hire in a public street, including standing for hire or being hailed;
- luxury hire cars to only be able to undertake pre-booked work; and

⁹ Taxi Industry Review Group: *Review of Taxi and Luxury Hire Car Legislation in Tasmania, Discussion Paper*, July 1999, page 14.

- luxury hire cars to have no external distinguishing features and to be of a premium quality by comparison to standard taxis, including strict maximum age limits for lesser standard luxury hire cars.

An important factor in the distinction between taxis and luxury hire cars was to have been the quality of the vehicle. Under the legislation, a number of makes and models of vehicle are identified as suitable luxury vehicles. These are divided into three groups, and fixed maximum ages are specified for the vehicles in the less 'prestigious' groups. Luxury hire cars are only able to continue to operate beyond those age limits outside the urban areas of Hobart, Launceston, Devonport or Burnie.

The provisions of the Act that relate specifically to luxury hire cars are reproduced at [Appendix 2](#).

It was recognised that there would be an overlap between taxis and luxury hire cars as a result of the changes to the legislation, especially in relation to pre-booked work. In the Second Reading speech presenting the 1999 Bill to Parliament, the then Minister for Infrastructure, Energy and Resources noted that this was already the case in Tasmania, and was the case in all other parts of Australia and around the world. The Minister spoke of the need to ensure that this overlap was properly managed so that the viability of the taxi industry was not undermined, and that there would be no instances of on-street disputes between the two industries, which would be to the detriment of the travelling public and Tasmania's visitor image¹⁰.

The Minister noted that the Government's response to concerns about overlap between the two industries was not to place major barriers in the way of new luxury hire car industry entrants by increasing licence fees or by requiring brand new vehicles. Rather, the mechanisms available to the Government to manage this included the ability to impose detailed conditions on luxury hire car licences and operator accreditation; the ability to reduce the maximum age limits for luxury hire cars; and the ability to increase the annual licence administration fee for the right to operate a luxury hire car. The Minister also referred to the Review Group's recommendation for the development of an industry code of conduct for drivers¹¹. The requirement for operators of both taxis and luxury hire cars to have a driver code of behaviour in place is now included in the Taxi and Luxury Hire Car Transport Operator Accreditation Guidelines. This issue is discussed further in Section 3.8 and further information is available in DIER's discussion paper on operator accreditation¹².

¹⁰ Parliament of Tasmania, Hansard, Tuesday 30 November 1999, Part 2, Pages 108–177 (Minister Lennon, Second Reading Speech of the Taxi and Luxury Hire Car Industries Reform Bill 1999 sourced from <http://www.hansard.parliament.tas.gov.au/isysquery/irla7b/1/doc> accessed 12 April 2006.)

¹¹ *ibid.*

¹² Department of Infrastructure, Energy and Resources, Review of the *Taxi and Luxury Hire Car Industries Act 1995*, Paper 5 – Operator Accreditation, Discussion Paper, March 2006, Section 3.6.

The Minister noted that bringing in controls in the areas identified above might have the effect of stifling the potential of the luxury hire car industry and that the Government saw no need at that time to do this. However, he noted that the system had mechanisms built in to enable the Government to respond quickly to problems that might arise¹³. This paper provides an opportunity for both industries to provide formal feedback on the interaction between the work of the industries and to make informed suggestions on how issues of concern might be better managed.

2.3. *Luxury Hire Car Regulations 2000*

The LHC Regulations were made in 2000 and cover issues such as controls on licences (e.g. form of the licence, distinguishing plates and labels, licence number-plates, transfer of licences); suspension and cancellation of licences; and licensing offences. The LHC Regulations are reproduced at [Appendix 3](#).

The LHC Regulations regulate significantly fewer issues than do the Taxi Industry Regulations, which are far more comprehensive. This reflects the fact that luxury hire cars are not seen as providers of public transport in the same way that taxis are. The higher level of regulation for taxis is intended to ensure more orderly market behaviour, and to achieve the objects of the Act relating to the availability of adequate standard taxi services at reasonable prices and the variation in taxi services to meet community demands at prices determined by market forces. These objects do not apply to luxury hire cars.

2.4. *National Competition Policy Review of the Taxi and Luxury Hire Car Industries Act 1995*

The review of the Act conducted in 1999–2000 by the Taxi Industry Review Group was undertaken as a result of National Competition Policy (NCP) agreements signed by all State and Territory Governments and the Commonwealth Government, which required the State Government to review and where appropriate, reform legislation that placed restrictions on competition. The guiding principle for the review was that legislation should not restrict competition unless it could be demonstrated that:

- the benefits of the restriction to the community as a whole outweighed the costs; and
- the objectives of the legislation could only be achieved by restricting competition.

¹³ Parliament of Tasmania, Hansard, loc.cit.

The Review Group noted that the general aim of NCP was to 'promote free and open competition where this is in the public benefit and therefore increase efficiency and productivity in the economy'¹⁴. It noted that the benefits of greater competition extend to all participants in the economy: consumers, business, government, and the economy as a whole. In particular, consumers would benefit from greater competition through lower prices, more product choice and better service¹⁵. The existence of luxury hire cars in the market, as noted in Section 2.1, provides consumers with a greater choice than if these vehicles were not in operation.

The Review Group identified a number of restrictive provisions in the Act and assessed them against these guiding principles. After considering the issues, the Review Group recommended that the provisions be either removed from the legislation or retained. For those that were retained, in some cases, less restrictive alternatives were proposed.

For luxury hire cars, the Review Group considered the following issues:

- the requirement for luxury hire cars to be licensed;
- the number and price of luxury hire car licences;
- the requirement for luxury hire car operators to be accredited;
- minimum vehicle standards and age limits applied to luxury hire cars;
- operating conduct of luxury hire car drivers (i.e. the requirement that work be pre-booked and the restriction on drivers from plying for hire or being hailed); and
- standards for drivers (i.e. the requirement for drivers to hold an Ancillary Certificate)¹⁶.

The Review Group found that the majority of these restrictions delivered a net benefit to the public and recommended that the existing legislative provisions be retained unchanged. The Review Group's comments in relation to issues such as licences, vehicle standards and driver conduct are discussed in further detail in Section 3.

¹⁴ Taxi Industry Review Group: op. cit., Appendix D.

¹⁵ *ibid.*

¹⁶ Taxi Industry Review Group: *Taxi Industry Act 1995 and luxury hire car legislation Regulatory Impact Statement*, April 2000, pages 47–54.

2.5. Luxury hire cars in other jurisdictions

This section describes regulatory arrangements for luxury hire cars or their equivalents in other jurisdictions. A table summarising each state's requirements can be found at [Appendix 4](#).

2.5.1. New South Wales¹⁷

In New South Wales (NSW) hire cars are regulated under the *Passenger Transport Act 1990* (NSW) and the *Passenger Transport (Private Hire Car Vehicle Services) Regulation 1991* (NSW).

A private hire vehicle service is a demand-responsive passenger service provided in a motor vehicle (other than a taxi-cab or bus) operated under a licence issued by the Ministry of Transport. Hire cars must be pre-booked. While 'pre-booked' is not defined, a request to a driver via a mobile phone for an immediate pickup would not be considered to be pre-booked. A private hire vehicle cannot stand or ply for hire on any road or road related area, and drivers (or other persons) are not permitted to tout or solicit for passengers. Only vehicles in immaculate condition and of a type approved by the Director-General may be used as unrestricted private hire vehicles¹⁸. Fares are not regulated. They are negotiated and agreed, either with the driver or with the booking office, to prior to the hiring, and there is no minimum hire time.

They can operate anywhere in the State as long as each journey either originates and/or terminates in the licensed area. The licensed hire car can be villages, towns, cities, local government areas or one of the three urban transport districts (Sydney, Wollongong or Newcastle). The hire car areas do not necessarily align with the taxi areas.

Unlike taxis, hire car do not have to be connected to a network. They are not required to install safety equipment such as security screens, cameras and global positioning systems, and do not have specific roof signs and lights. External signage is not prohibited, but in practice hire cars do not display such signs. The legislation does not prohibit the use of meters in hire cars, although these are not used.

Drivers of hire cars must hold a private hire vehicle driver authority issued by the Ministry of Transport. Applicants must be at least 20 years of age and must have a fully unrestricted driver licence. They must have met the medical fitness standards determined by the Director-General and must be of good repute and in all other respects a fit and proper person to be the driver of a

¹⁷ NSW Ministry of Transport Website: <http://www.transport.nsw.gov.au/licensing/taxis/operators.html> accessed 21 February 2006.

¹⁸ NSW Ministry of Transport: Private Hire Vehicle Driver Authorisation Package, December 2004, page 3.

private hire vehicle, and have sufficient responsibility to drive a private hire vehicle in accordance with law and custom¹⁹.

Operators of hire car services must be accredited by the Ministry. In order to be accredited an applicant must be:

- of good repute²⁰;
- fit and proper²¹;
- able to meet and continue to meet the appropriate requirements in respect of:
 - (i) safety of drivers, passengers and the public (e.g. be able to demonstrate knowledge and competence relating to the operation of a private hire vehicle service);
 - (ii) financially capable; and
 - (iii) vehicle maintenance (e.g. have access to maintenance facilities for private hire vehicles)²².

Hire car licences are issued by the Ministry of Transport. There is no restriction on the number of licences available. At March 2006 there were 752 hire cars operating in NSW. In Sydney, perpetual or 50-year licences are made available at the 'prevailing market rate', which at February 2006 was \$80 000. Sydney short-term licences are available for \$8 235 per year. Outside of Sydney the licence fees vary according to supply and demand. Ordinary licences can be traded or sold on the open market, but short-term licences cannot be transferred.

Vehicles have not been subject to a maximum age limit since 2001. The vehicle must comply with the Australian Design Rule definition of a passenger car, with a maximum of nine seats

¹⁹ *ibid.*, pages 3–4.

²⁰ The Ministry does not set specific standards for a person's reputation, but examines all the circumstances of an application to assess about whether it considers a person is of good repute and fit and proper. An applicant must provide references declaring his/her good repute from two persons who hold particular positions (e.g. Judge, Medical Practitioner, Solicitor, Police Officer etc) and have known the applicant for at least two years and consider him/her to be of good repute. The Ministry also checks to see whether an applicant has a criminal record. [NSW Ministry of Transport: Private Hire Vehicle Operator Accreditation Package, December 2004, page 4.]

²¹ An applicant for accreditation is required to declare that he or she is aware of the following:

- (a) that they may be refused accreditation if they fall under Part 2D.6 (Disqualification from managing corporations) of the Corporations Act, from managing corporations of if they are the subject of proceedings under section 592 (Incurring of certain debts, fraudulent conduct) of the Corporations Act.
- (b) that the Ministry may examine any factors which relate to a person's suitability to be an accredited operator if the applicant is the director of a company that has been wound up, or is in the course of being wound up relating to insolvency under Part 5.4 (Winding up in insolvency) of the Corporations Act, or has disclosed any convictions or charges in accordance with (c) below.
- (c) that written notice of any conviction for any offence in the last 5 years, or if there are any charges pending must be provided to the Director-General.

The applicant must also declare in writing that there are no convictions or pending proceedings against them. [NSW Ministry of Transport: Private Hire Vehicle Operator Accreditation Package, December 2004, page 5.]

²² NSW Ministry of Transport: Private Hire Vehicle Operator Accreditation Package, December 2004, page 4.

(including the driver's seat). The shape of the vehicle must be specified on its registration certificate as a convertible (CON), coupe (COU) or sedan (SED). A station wagon (WAG) is not acceptable unless the vehicle is at least 30 years old. The vehicle must have a wheelbase of at least 2 800 millimetres (non-stretched version) unless it is at least 30 years old. Vehicles must be very well presented and in excellent condition, with no visible signs of damage to the paintwork, body, fittings or interior²³. They are not routinely inspected to ensure they are maintained in excellent condition, but in practice market competition is so strong that operators that do not keep their vehicles well presented would quickly lose business. Compliance officers are able to issue infringement notices to operators in the unlikely event that a hire car is not properly presented.

There is also a category of hire car known as restricted hire cars. These vehicles are exempt from the licensing arrangements and driver authorisation requirements that apply to unrestricted hire cars. However, operators must still be accredited. They can operate anywhere in the State, can do any number of weddings, school formals and funerals and can use any age or type of immaculate registered vehicle. The same standards for the condition of the vehicle that apply to unrestricted hire cars also apply to restricted hire cars.

2.5.2. Victoria²⁴

Hire cars are modern luxury sedans or stretched limousines. At October 2005 there were 632 hire car licences in Victoria.

A one-off fee of \$60 500 (including GST) is payable for the issue of a new hire car licence to operate in the Melbourne metropolitan area. In addition, licence applicants must show that they are of good character, financially stable and qualified to operate a hire car service. There are no restrictions on the number of licences available and licences can be transferred to another person.

Until mid 2002, the grant of a hire car licence required the applicant to satisfy a 'public interest' test. This required proof to be provided that there was an immediate market to services, which was not already being served by a taxi or other hire car operators. This test presented a barrier to many potential new entrants. As part of the Government's taxi and hire car reform, this entry test was removed.

The Victorian Taxi Directorate (VTD) is currently reviewing country hire car arrangements and is proposing to reinstate the 'public interest' test for country hire car licences. This is due to

²³ NSW Ministry of Transport Information Sheet: *Passenger Transport (Private Hire Vehicle Services) Regulation 2001: Specifications for Private Hire Vehicles*

²⁴ Victorian Department of Infrastructure website: Structure of the hire car industry, www.doi.vic.gov.au/doi/internet/vehicles.nsf/AllDocs/9BC830691A2928DFCA256F320020824F?OpenDocument accessed 2 March 2006.

industry concerns that an unrestricted issue of hire car licences in regional areas without an appropriate public interest test may have a major detrimental impact on regional taxi services, which are also under review. Included in this work is establishment/confirmation of the metropolitan boundary and determination of the hire car fee for country areas.

Hire cars must be pre-booked through the licence holder's operational address, which is specified on the licence. Operators are not permitted to display a mobile phone number on their vehicle. Hire cars are not permitted to stand on taxi ranks or pick up off the street. Metropolitan hire cars are licensed to operate state-wide providing all hirings are pre-booked through the specified operational address. Country hire cars are permitted to drop off and pick up their passengers in the metropolitan zone (currently defined as a 50 kilometre radius from Melbourne GPO) but are not permitted to operate wholly within the metropolitan zone.

Fares are not regulated by the Government and are negotiated between the operator and the hirer. Meters are prohibited. There are no requirements for a minimum fare or hiring time. Operators are required to maintain details of hirings undertaken and bookings, and to produce this information upon request from an authorised officer.

There is a range of vehicle types able to be registered as hire cars. Any vehicle licensed as a hire car must have a minimum wheel base length of 2800 millimetres. Imported high luxury vehicles such as Rolls Royce and Bentley can operate up to a maximum of 25 years. Other imported luxury vehicles with a wheel base of 3100 millimetres or longer, such as higher model BMW and Mercedes, can operate up to a maximum of 15 years. Imported luxury vehicles with a wheelbase of 2800 to 3099 millimetres can operate up to a maximum of 10 years. Stretched vehicles of any model, seating up to 12 people including the driver can operate up to a maximum of 25 years. Australian luxury vehicles can operate up to a maximum of seven years (Caprice and LTD) or five years (Statesman and Fairlane). Other vehicles can be operated as luxury hire cars provided that they have a total seating capacity for less than nine people including the driver, and a manufacturers' recommended retail price (without optional extras) greater than the luxury car tax threshold. These vehicles can operate as hire cars up to a maximum of five years. Country hire cars, with the exceptions of the imported high luxury vehicles and stretched limousines, are able to operate for two to three years longer than the equivalent vehicle in the metropolitan areas. Until 2004 there were age limits on vehicles entering the hire car industry, but these have been removed.

Restricted hire vehicles are similar to hire cars except that limited vehicle types qualify for this licence, such as classic, vintage or veteran cars made before January 1943 or vehicles which, by nature of their construction or fittings, can provide a service not available through standard hire cars (for example, motorcycles, off-road four-wheel drive and adventure or tour vehicles). At October 2005 there were 619 restricted hire vehicle licences in Victoria.

Special purpose vehicles are similar to hire cars except that they are licensed for specific purposes such as weddings, tourism and leisure activities. At October 2005 there were 997 of these licences operating in Victoria.

2.5.3. Queensland²⁵

In Queensland limousine services are regulated by the *Transport Operations (Passenger Services) Act 1994* (Qld) and the *Transport Operations (Passenger Services) Regulation 2005* (Qld). Queensland defines a limousine service as 'an unscheduled public passenger service provided by a luxury motor vehicle where the fare for a journey is decided before the journey begins'. Limousines must not ply or stand for hire at a place other than the owner's premises unless the place is approved in writing by Queensland Transport (e.g. an approved limousine rank). They can only pick up within the applicable limousine service area and must have a prior booking, unless they are standing at a limousine rank, which enables them to accept hirings only for approved fares to set destinations²⁶.

Limousine service licences operate in two areas: Whole of Queensland, which allows the operator to provide a service anywhere in the State; and Rest of Queensland, which is the non-metropolitan area and covers most of the geographical area of the State. The average value of a licence in the Whole of Queensland area at February 2006 was \$91 500 and for the Rest of Queensland was \$3 000. There are currently 453 limousine service licences in Queensland. The majority of limousines operate in the Whole of Queensland area²⁷.

Limousine service licences can be leased, sold or transferred to an accredited operator and there is no limit on the number of licences a person may hold or on the number of licences which can be issued for a particular area. Licences are subject to an annual fee of \$120.85²⁸.

There is no minimum hire time for a limousine, but the fare must be agreed upon prior to the journey. Fares are not regulated. However, most limousine fares are approximately 20 per cent higher than a taxi fare for the same distance. These vehicles do not have meters installed as limousine fares are agreed when the booking is made. The legislation is silent in relation to the installation of meters. Limousines are not connected to radio networks.

The Passenger Services Regulation lists a number of vehicle models that are suitable for use as limousines. Vehicles such as Bentley and Rolls Royce have no age restriction; vehicles such as Cadillac and Lincoln have a maximum age limit of 15 years; and vehicles such as Statesman

²⁵ Queensland Transport website: <http://www.transport.qld.gov.au/qt/PubTrans.nsf/index/OADInformationbulletins> accessed 7 March 2006.

²⁶ Queensland Transport: *Information Bulletin PT 08/11.05 Limousine Service Licences*.

²⁷ Queensland Transport: *Taxi and Luxury Hire Car Industries Act 1995 Limousine Development Discussion Paper*, May 2004.

²⁸ Queensland Transport: *Vehicle Declaration for each Operator Accreditation Category*.

and Fairlane have a maximum age limit of six years. Stretched vehicles can operate for an additional six years²⁹. Vehicles that are aged over 40 years can also be used as limousines provided that they are registered and safe. Vehicles must be maintained be in a safe condition and be operated in a safe manner³⁰.

As with operators of other public passenger services, operators of limousine services are required to be accredited. Accreditation considers factors such as whether the operator has previously had accreditation suspended or cancelled, whether they have engaged in conduct that is damaging to the reputation of public passenger transport, or has been convicted of a 'disqualifying offence' (i.e. certain criminal and civil offences)³¹. Limousines are inspected every six months by Queensland Transport. Periodic audit checks are undertaken on limousine operators.

Drivers of limousines must hold driver authorisation. Requirements include having a satisfactory criminal history, having held a driver licence for at least three years and having a suitable driving history. The person must also obtain a medical certificate for a commercial vehicle driver and meet relevant standards³².

2.5.4. South Australia³³

In South Australia hire cars are regulated under the *Passenger Transport Act 1994* (SA). These vehicles are designated 'Small Passenger Vehicles' (SPVs) in the Act. An SPV is defined as a motor vehicle that is not a taxi, designed for the principal purpose of carrying passengers and designed to not carry more than twelve seated persons.

Because they are not taxis, SPVs are not permitted to be called taxis or to be advertised as a taxi service. They cannot use designated taxi stands, ply for hire in the streets, or use a taximeter.

There are no limits on the number of hire cars able to operate, and there is no market value for an SPV 'licence'. Technically, a person who is accredited to operate a hire car is licensed to do so. The annual accreditation fee is \$1 155.

To gain accreditation, operators and drivers of SPVs must be fit and proper persons to operate or drive an SPV. Assessment of whether a person is 'fit and proper' covers their physical fitness, criminal history and whether they hold an appropriate drivers licence. Applicants for accreditation must supply a Plan of Operation to the Government, which includes an

²⁹ *Transport Operations (Passenger Services) Regulation 2005* (Qld), Schedule 4.

³⁰ Queensland Transport: Information Bulletin PT 08/11.05.

³¹ Queensland Transport: *Information Bulletin PT204/11.05: Operator Accreditation for Limousines*.

³² Queensland Transport: *Information Bulletin PT304/11.05: Driver Authorisation for Limousine Services*.

³³ Radbone, Ian & Stuart Clement: *A Study of Adelaide's Small Passenger Vehicle Industry 2003–2004*, Final Report, 27 February 2005.

assessment of the financial feasibility of the business. Drivers must undertake the same training course as taxi drivers.

There are four categories of SPVs categories, with one of these divided into a further four sub-categories:

- Metropolitan Vehicles (MV): quick response services, similar to taxis but using a higher quality vehicle, e.g. Statesman or Fairlane, as opposed to Commodore and Falcon. These vehicles must be aged no greater than 3.5 years on entry and cannot operate beyond 6.5 years. They are similar to taxis in that there is no limit on the amount of work they can do (unlike limousines), but they are required to be high standard vehicles with a minimum 2800 millimetre wheelbase. These restrictions are intended to distinguish between taxis and MVs.
- Traditional Vehicles (TV): limousine services, typically used for weddings, formals etc., but also undertake corporate and tour work.
- Non-metropolitan Vehicles (NV): operate in the same ways as MVs outside the metropolitan area, subject to the normal restrictions on that prevent them plying for hire or calling themselves taxis. These vehicles are regulated by the State Government if the local council chooses not to use its powers under the Local Government Act to do so. Some NV operators continue to provide 'country taxi' services, pending resolution of their status by the Premier's Taxi Council.
- Special Purpose Vehicles (SV): off road vehicles, motor cycles, classic, veteran and vintage (CVV) vehicles and novelty vehicles.

There are different vehicle standards that apply to each category of vehicle. For instance, MVs and TVs must have a wheelbase of at least 2 800 millimetres. MVs, TVs and NVs must have an engine capacity of at least six cylinders and a seating capacity of five adults, including the driver. The maximum age for TVs and NVs is 15 years, with some exemptions (e.g. in the case of stretched vehicles). Some vehicles have maximum odometer readings and annual kilometre limits.

TVs and SVs other than motor cycles have a minimum charge of \$20.00 per hiring.

2.5.5. Western Australia

In the Perth metropolitan area hire cars are referred to as small charter vehicles (SCVs), and in the country areas they are known as private taxis (PTs). Licences are not sold or leased. Rather, they are subject to an annual licence fee of up to \$85.00 and there are no restrictions on numbers. At March 2006 there were 498 SCVs and 98 PTs in operation.

SCVs are licensed to operate within the defined Perth metropolitan area, to destinations within and outside the defined metropolitan area (prescribed in the *Taxi Act 1994*).

SCVs can only be pre-booked, and are not permitted to operate from taxi ranks, ply for hire, street market, tout, or cruise on roads or other public places for the purpose of hire. They are also not permitted to operate in the style of a regular passenger transport service (i.e. operating to prescribed routes, timetables, set fares and stopping places along routes for picking up and setting down passengers). They cannot charge passengers individual fares. An SCV is not permitted to display identification that in any way presents it in a manner resembling a taxi. They do not have taximeters.

There are four broad vehicle categories:

- luxury vehicles: Group A (includes Bentley, Rolls Royce, Cadillac, Daimler etc), which can operate to any age, and Group B (includes Ford Fairlane/LTD and Holden Statesman/Caprice or similar), which can operate to a maximum age of eight years, (ten years for vehicles licensed before 1 August 2002);
- luxury people movers (includes Tarago, Voyager and similar), which can operate to a maximum age of eight years);
- modified luxury vehicles (stretched versions of the luxury vehicles and luxury people movers), which can operate to any age but have a maximum entrance age of six years; and
- classic/invitation class vehicles (vehicles aged 25 years or older), which may be licensed irrespective of make, model, shape or wheelbase, except four wheel drive vehicles.

From 1 August 2003, any vehicle licensed as an SCV must have a minimum wheel base length greater than 2800 millimetres (non-stretched version) unless it qualifies as a classic/invitation class vehicle.

Vehicles such as station wagons and utilities (unless it is a classic/invitation class vehicle) or four wheel drives are not eligible to be licensed as an SCV. Left hand drive vehicles will not be licensed to carry fare paying passengers.

The Director-General may approve vehicles not specified in each group for licensing as an SCV. To qualify the vehicle must be specified as a passenger vehicle, have a wheel base greater than 2800 millimetres and, when new, must cost an amount equivalent to or greater than the threshold figure at which luxury vehicle tax applies (for Group B luxury vehicles and people

movers) or at least twice the amount of the threshold figure at which luxury vehicle tax applies (for Group A luxury vehicles).

There is a two-tiered fare structure. For vehicles with five or fewer passenger seats, other than people movers, the minimum hourly fare for vehicles is \$55.00, with a minimum of \$55.00 per hire. For vehicles with more than five passenger seats and people movers, regardless of seat number, the minimum hire is \$77.00, with a minimum of \$77.00 for the first two hours, then reduced to the minimum hourly fare of \$55.00 for longer charter periods for a single hire. Operators can charge anything above the minimum fare, which is reviewed annually by the Department for Planning and Infrastructure (DPI).

Licence holders are required to maintain records of all licensed charter operations and supply details of such records to DPI as required. The specific details required to be kept include times and dates journeys are commenced and completed, the make and licence plate number of the vehicle used, the driver of a vehicle for each journey and proof of payment. Drivers are required to have an appropriate endorsement on their driver's licence.

PTs must meet the same vehicle standards as SCVs but are not subject to age restrictions. Like SCVs they can only be pre-booked and do not have a meter. Minimum fares for PTs are calculated as 30 per cent above the hourly taxi detention rate for the area. However, the operators can charge above the minimum fare.

2.5.6. Northern Territory³⁴

In the Northern Territory hire car services can be provided by limousine or private hire cars. Both categories of vehicle are used to carry passengers for the purpose of hire or reward with the services of a driver. Vehicles are approved by the Director of Commercial Passenger (Road) Transport and must be fitted, equipped or constructed to carry up to eight passengers. At January 2006 there were 13 limousines and 18 private hire cars operating in the Darwin and Alice Springs areas.

A person applying for a limousine or private hire car licence must own the vehicle proposed to be operated under that licence. To own/operate or register a limousine or private hire car, a person must be an Accredited Operator under the Commercial Passenger (Road) Transport Act. This includes checks on a person's criminal record and financial status. Operators are required to keep records of their operation and these are checked if any complaints are received, or during random audits.

³⁴ Northern Territory Government Department of Planning and Infrastructure: *Information Bulletin CPV13: Limousine Licence*, effective 14 December 2005.

The major differences between the two categories of vehicle relate to the communications devices permitted to be installed, the cost of the licence and the booking arrangements. These are outlined below.

There are no limits of the number of licences able to be issued. The annual fee for a limousine licence is \$2 000 regardless of the region. For private hire cars the fee is \$6 000 per year. A full payment of 12 months will apply for any new licence that is issued. After that 12-month period the option of three, six, nine and 12 monthly payments are available. If a limousine or private hire car licence is expired for a period of more than three months it will be considered cancelled. There is provision to place a licence on hold for a maximum of three months in any one-year period.

Standard vehicles used as limousines and private hire cars must not be older than three years when they are registered for the first time as a hire car, and cannot operate for longer than seven years. Other vehicles can operate up to the age of 15 years, which may be extended subject to assessment. Stretched vehicles are allowed to operate for a further two years beyond these limits. Station wagons, hatchbacks and small people movers are not able to be operated as luxury hire cars. The NT Government has issued standards for the exterior and interior of the vehicles, as well as standards for the luggage compartment, accessories and ride quality and comfort. These include a requirement for body panels to be in a sound condition; paintwork to be of the same colour and lustre and free from blemishes; interiors to be free of dirt, stains and damage; and carpet matching the vehicle trim to be fitted to the floors of the vehicle. Vehicles are inspected at intervals not exceeding six months³⁵.

A limousine is only permitted to accept a hiring if it has been pre-booked. Limousines cannot sit on a taxi rank. Private hire cars can only accept pre-booked hirings unless the hiring commences from an approved function or event. Approved events include major sporting events and shows. Private hire cars can also pick up from airports and railway stations. Both limousines and private hire cars can operate throughout the Northern Territory, but generally stay within their own areas, possibly due to the large distances between the metropolitan areas. Upon completion of each job the vehicle is required to return to base of operation unless it is not reasonably practicable for the driver to do so before the next pre-booked journey. Limousine drivers are not permitted to park their vehicle in a public place unless they are picking up or setting down a passenger, or waiting at a location for a pre-booked hiring to commence. Inspectors are able to ask drivers for evidence of a booking that they are waiting for.

³⁵ Northern Territory Government Department of Planning and Infrastructure: *Northern Territory Private Hire Car & Limousine Requirements and In-Service Maintenance Standards*, December 2003.

Fares for limousines and private hire cars are not regulated by the Government. The fare is to be negotiated between the hirer and the driver or network operator prior to the journey taking place. Meters are not permitted in limousines or private hire cars.

Limousines and private hire cars do not have top lights or company decals. Advertising on the exterior of the vehicle is prohibited, but an owner or operator of a private hire car or limousine can apply for approval to fit company decals to the exterior of the vehicle. No other form of advertising (including brochures, pamphlets, business cards etc displayed inside the vehicle) is permitted.

Communication devices and, company logos must be fitted according to standards set by the Government. Limousines are not permitted to have any two-way radio or dispatcher systems installed, but drivers may use a mobile phone. Private hire cars may have mobile or car phones, restricted two-way radios or dispatcher systems installed. Any communications device used by drivers to receive notification of jobs is subject to conditions. These conditions are to enhance customer service, safety, and complaints handling so that the same minimum standard across the entire industry is maintained.

Drivers must hold a licence to drive commercial passenger vehicles and must have successfully completed formal driver training. To drive a limousine or private hire car, they must have the relevant endorsement on their Commercial Passenger Vehicle ID card.

2.5.7. Australian Capital Territory³⁶

In August 2004 the legislation regulating hire cars in the Australian Capital Territory (ACT) was amended to remove the quota restrictions on hire car licences, introduce new leased hire car licences, and introduce hire car accreditation. The ACT Government offered to buy back existing perpetual hire car licences during 2005. The buy-back was voluntary and all licence holders accepted the offer. The price paid by the Government for the licences varied, from \$100 000 for operators who paid \$100 000 or less, the actual purchase price for operators who paid more than \$100 000 but less than \$120 000, and \$120 000 for operators who paid \$120 000 or more for their licence.

At March 2006 there were 27 leased hire car licences operating in the ACT. There are no restrictions on the number of licences available.

Leased hire car licences entitle the holder to perform an unrestricted range of hire car work. A hire car is a vehicle (other than a bus or a taxi) that is used, or intended to be used, for the

³⁶ Australian Capital Territory Road Transport Authority: *Hire Car Regulation Information*, February 2005.

transport of passengers under a contract; and does not stand or ply for hire. Restricted hire car licences entitle the holder to perform hire car work for weddings and school formals only.

Leased hire car licences are issued for one to six years. The fee for leased hire car licences is \$4 600 per annum, with an option of quarterly payments being available. The full annual fee will become payable should a quarterly payment not be made, and the licence may be suspended if the licence fee is not paid.

There is no requirement for hire cars to be affiliated with a network. Hire cars must be pre-booked, although this term is not defined in the legislation. Hire cars cannot undertake rank and hail work, but there is no provision preventing drivers from taking bookings by mobile phone. They are not required to have livery and are not permitted to have any advertising material on the vehicle. Hire cars are not required to meet waiting times performance standards that apply to taxis. The legislation is silent on the use of meters in hire cars. Hire car fares are not regulated by the Government and there are no minimum fares or minimum booking periods.

Restricted hire car licences for weddings and school formals are valid for three, six or twelve months. The duration of these licences must be consistent with the registration period of the vehicle. The fee for restricted hire car licences for weddings and school formals work is \$25.00 regardless of whether the period of the licence is three, six or twelve months. The fee covers the cost of the label received with each licence. At March 2006 there were 25 restricted hire car licences on issue.

There are also provisions in place for authorising vehicles for special events, in circumstances where the number of ACT licensed hire cars may not be sufficient or suitable to cover special events such as the visit of an overseas head of state.

A hire car (apart from restricted hire cars used for weddings and school formals work only) must comply with a minimum wheelbase requirement of 2800 millimetres.

A hire car driver, including the driver of a hire car used for weddings and school formals only, must be aged at least 21 years and have held an Australian "C" class licence for at least twelve months. (These requirements are currently being reviewed.) They must obtain a public vehicle licence for the relevant class of hire car vehicle and have completed an approved hire car training course (this requirement does not apply to people driving restricted hire cars only). Drivers must be assessed as suitable to drive a public vehicle, including undergoing a criminal history check and an annual medical assessment.

Operator accreditation applies to operators of hire car services including restricted hire car services. Under hire car service accreditation applicants are required to meet 'suitable person' requirements and complete a police criminal history check. Hire car operators must meet minimum service standards in relation to the cleaning, service and maintenance of the vehicle,

records management, complaints management, lost property procedures and so on. For instance, the operator must implement a regular maintenance, service and inspection program for the vehicle and a regular cleaning program. Operators must maintain detailed records in relation to the maintenance, servicing and repairs of the vehicle, as well as of every hiring undertaken, including customer details³⁷. Records are examined by auditors as part of the accreditation scheme.

Restricted accreditation applies to operators who provide specific hire car services for weddings and school formals only. The minimum service standards for restricted hire cars are less stringent than those for hire cars. For instance, the operator does not have to implement a cleaning program for the vehicle and they do not have to have procedures in place for managing customer complaints and lost property. However, they must still maintain records in relation to maintenance and repairs, hirings and the resolution of complaints³⁸.

2.6. Current situation

There are currently 46 luxury hire car licences on issue in Tasmania: 26 in southern Tasmania (the 62 telephone area), 15 based in and around Launceston (the 63 telephone area) and five on the North West Coast (the 64 telephone area). The majority of the vehicles operated under these licences are Ford Fairlane, Holden Statesman or similar vehicles. Other vehicles operated include Rolls Royce, Bentley, Jaguar, Cadillac, Lincoln and BMW.

Licences are available on application to the Transport Commission at a cost of \$5 000³⁹. Licences remain in effect for 12 months, and can be renewed for 12 months at a time on payment of a prescribed fee. At May 2006 this was 30 fee units – i.e. \$35.10⁴⁰.

³⁷ Australian Capital Territory Road Transport (Public Passenger Services) (Minimum Service Standards for Hire Car Services (Other Than Restricted Hire Car Services)) Approval 2006 (No 1), Disallowable Instrument DI2006-42 made under the *Road Transport (Public Passenger Services) Regulation 2002*, Section 18B.

³⁸ Australian Capital Territory Road Transport (Public Passenger Services) (Minimum Service Standards for Restricted Hire Car Services) Approval 2006 (No 1), Disallowable Instrument DI2006-43 made under the *Road Transport (Public Passenger Services) Regulation 2002*, Section 18B.

³⁹ Taxi and Luxury Hire Car Industries Act, Section 23C

⁴⁰ *ibid.*, Section 23D

3. Issues

3.1. Issues for consideration

This section considers issues that are related to the distinction between luxury hire cars and taxis, with a view to clarifying the issues of concern to the industries in relation to the overlap between the two and seeking input from the industries on how these issues might be overcome.

This section will discuss the reasons for regulating the luxury hire car industry, some of which are different to the reasons for regulating the taxi industry. It will then consider the major issues covered by the regulations, including licensing, vehicle specifications, hiring arrangements and so on.

The debate around the distinction between taxis and luxury hire cars is largely in relation to the use of vehicles such as the Statesman and the Fairlane, which are also used as taxis and which are the vehicles most commonly used as luxury hire cars. Vehicles such as the Bentley or Rolls Royce; Cadillac, Jaguar and Daimler, as well as stretched vehicles, are less likely to be seen as 'competing' with taxis because of the cost of these vehicles, as well as the lower likelihood that these vehicles would be used for more day to day travel.

3.2. Purpose of regulating luxury hire cars

3.2.1. Intent and objects of the Act

As noted in Section 2.1, luxury hire cars are regulated primarily to ensure that they operate safely, and that there is a distinction between these vehicles and taxis, in particular to ensure that there is a minimum quality standard for these vehicles and that this is 'at a premium to standard taxis'. These issues are encapsulated in the intent and objects of the Act in respect of luxury hire cars⁴¹, as outlined in Section 2.1.

The intent and objects of the Act in respect of taxis are being considered by the Taxi Industry Reference Group during the course of its work during 2006. It is therefore appropriate that these items also be reviewed in respect of luxury hire cars.

The issue of safety for both passengers and drivers is a significant reason for the regulation of luxury hire cars. There is unlikely to be any justification for the Government to not regulate to ensure the safety of the industry. Accordingly, this will not change.

⁴¹ *ibid.*, Section 4(3) and (4).

If there is to be a separate luxury hire car market, it will be necessary to ensure that this industry can be accurately defined and therefore distinguished from taxis. One purpose of this paper is to clarify the market for luxury hire car services. DIER understands that the market would comprise people who prefer a premium service, possibly in a range of areas including travel and accommodation, as well as people who might choose to travel in a luxury vehicle for a special occasion⁴².

An initial way to distinguish the two is by considering what the expectations for each industry might be. For example, there is largely an expectation that taxis will be available to provide a supplementary transport service, ideally 24 hours a day, seven days a week⁴³. Taxi licence owners pay very high prices for their licences, which in turn gives them the right to access work that is not available to other transport providers, namely rank and hail work. There are no defined quality or vehicle standards other than general requirements that apply to other public passenger vehicles and drivers to ensure that the vehicle is safe and roadworthy (for taxis this includes complying with an age limit), and that drivers are appropriately qualified and licensed. This means that a taxi service can be provided by a basic quality vehicle with a basic standard of service, can be provided by a premium quality vehicle with a much higher level of service, or can fall somewhere in between.

On the other hand, there is no expectation that a luxury hire car will always be available. Rather, it is a more discretionary service, available to those who seek a high standard of service. There is also less discretion in relation to the vehicle standards for luxury hire cars, which must be maintained at a luxury standard. In contrast to taxis, which can access the 'premium' market if they are of a sufficiently high standard, luxury hire cars are not able to access a more general, 'standard' market. Likewise they cannot access the rank and hail market. Licence costs are correspondingly lower than for taxis.

The taxi industry provides a core public transport service, and is therefore regulated with the intention of ensuring safety, affordability and availability. Regulation of the luxury hire car industry is considered necessary to ensure that where there is competition between the taxi and luxury hire car industries (i.e. at the 'premium' end of the market) this occurs in an orderly manner and to ensure that taxis are 'protected' from what would otherwise be open access by luxury hire cars to the wider market (i.e. rank and hail work). Such access would result in unfair competition between the two industries, with luxury hire cars able to access the same work as taxis on licences that cost significantly less.

⁴² The limited passenger services provisions of the PT Act allow for vehicles that, but for their age, would otherwise be classified as a luxury hire car, to be hired out for weddings or funerals. This is the closest provision in the Tasmanian legislation to the 'restricted' hire car services available in some other states.

⁴³ This is an expectation of the taxi industry as provider of a supplementary public transport service. However, there is currently no obligation on taxis to be available 24 hours a day, seven days a week. The issue of whether any obligations should be placed on the owner of a taxi licence in relation to the service provided will be considered during the review of the legislation.

In the first instance, the most appropriate means for defining the industry would be by regulation. However, whether this should be achieved by regulating quality standards, as is currently the case, may not be straight forward. There may be other means, either additional to or as a substitute for quality by which such a distinction can be achieved. These issues are discussed more fully in the following sections.

3.2.2. Questions

1. Is there a separate luxury hire car market distinct from taxis? What is that market (i.e. who uses luxury hire cars and for what purpose do they use them)? What features of luxury hire car services would prevent these services from being provided by taxis?
2. For what reasons should luxury hire cars be regulated?
3. Are the current reasons for regulation, (i.e. to ensure safety and 'premium quality' and to clarify the distinction between luxury hire cars and taxis) appropriate? Should there be other reasons in addition to these reasons?

3.3. Licensing arrangements

3.3.1. Hire car licences

Luxury hire car licences are issued by the Transport Commission in respect of small passenger vehicles that are not taxis⁴⁴. The licence authorises the vehicle specified in the licence to be hired out, together with a driver, for the purpose of carrying passengers for reward, even though the vehicle is not a taxi and the service is not a limited passenger service^{45, 46}.

The Review Group concluded that the benefits of licensing luxury hire cars included:

- licensing is required to enable the luxury hire car industry to be effectively regulated;
- the licence fee will assist in preventing the undermining of the taxi industry that may occur from unrestricted entry which could, in turn, undermine the objectives of the Act;

⁴⁴ Taxi and Luxury Hire Car Industries Act, Section 23B(1).

⁴⁵ *ibid.*, Section 23B(2).

⁴⁶ Limited passenger services are services that a small public passenger vehicle (i.e. a vehicle with a seating capacity of 13 seats or fewer) is able to undertake. These services are specified in Schedule 2 of the *Passenger Transport Act 1997*, and include hiring of classic or vintage cars and a driver for special occasions, hiring of a motor cycle and a driver for irregular tours or general hire, and hiring of a vehicle fitted with a wheelchair lift, and a driver, for hire by persons with disabilities (i.e. a Special Purpose Cab).

- the licence fee will help to ensure that entrants are committed to the industry and will be focussed on providing a quality service rather than operating as de facto taxis⁴⁷.

However, the taxi industry has claimed that this has not been effective, and that some hire car operators are still operating their vehicles as taxis to some degree.

Number of licences

There are no restrictions on the number of luxury hire car licences available in Tasmania. This is consistent with the approach taken in other jurisdictions.

Hire cars are intended to serve a smaller, more specialised market than that served by taxis. Consumer demand is likely to determine to a large extent, the number of vehicles able to operate. Restricting the number of licences would not only reduce consumer choice, but would also be likely to conflict with the NCP requirements. The Review Group noted the conclusion of the Burton Inquiry⁴⁸ that there was no valid reason for limiting the number of hire cars operating in Tasmania. Ten years later there is still no readily apparent reason for restricting the number of luxury hire car licences.

Cost of licences

Luxury hire car licences are currently available for \$5 000 on application to the Transport Commission⁴⁹.

Currently a taxi operator could operate a 'premium' taxi service with a vehicle that is defined as a luxury vehicle (e.g. Statesman). The cost of providing this type of service would be much greater than the cost of operating a luxury hire car service with a similar vehicle, due to the significant difference in the cost of the licence (up to \$81 750⁵⁰ (assessed market value) or over \$100 000 (current market value) in Hobart for a taxi licence, as opposed to \$5 000 for a luxury hire car licence). While, unlike taxi operators, the luxury hire car could not operate from taxi ranks (including the airport ranks) or have access to hail work, the operator could build up a regular client base and could charge fares similar to taxi fares because of the lower cost of entering the market, which would give them the opportunity to compete with taxi services in the pre-booked market. This was a major concern of the taxi industry in the 1999 Review, and it was suggested that licensing should be used to control to number of luxury hire cars and to prevent these cars from being used as 'de facto' taxis⁵¹.

⁴⁷ Taxi Industry Review Group: Regulatory Impact Statement, page 48.

⁴⁸ Taxi Industry Review Group, page 48. The "Burton Review" was a review of Tasmania's public vehicle licensing undertaken by an independent committee, chaired by Mr David Burton, in 1995–1996.

⁴⁹ Taxi and Luxury Hire Car Industries Act, Section 23C(2)(c).

⁵⁰ *Taxi Industry (Taxi Areas) Regulations 1996* (Tas) Regulation 7.

⁵¹ Taxi Industry Review Group: Regulatory Impact Statement, page 48.

It is argued that if the cost of entering the luxury hire car market was increased, there would be less opportunity for luxury hire cars to compete with taxis in the way described above. Increasing the licence cost would be one means by which this might be achieved. In other jurisdictions, licence costs range from no cost (with a small annual fee) in SA and WA to a market value of over \$90 000 in Queensland.

In the ACT hire car licences are leased from the Government for \$4 600 per year. Another option for changing the licensing arrangements would be to introduce such a leasing arrangement rather than having licences owned by individuals.

A significant increase in the licence value is unlikely to result in a similar situation to that which has occurred with perpetual taxi licences, whereby licences are used as investments with market values increasing over time. This is mainly because the number of luxury hire car licences is not restricted, so it is unlikely an investor would purchase a licence at a higher rate on the market than it could be purchased from the Government. Likewise, luxury hire car licences are not assignable, and therefore must be operated by the licence holder.

As noted in Section 2.6 luxury hire car licences can be renewed for 12 months at a time on payment of a prescribed fee, which at March 2006 was 30 fee units – i.e. \$35.10⁵². An equivalent fee for a perpetual taxi licence is 100 fee units (\$117)⁵³, which is an annual administration fee for the licence, and covers costs incurred by DIER associated with the administration of taxi licences, including part-funding the salary of an Executive Officer, production of newsletters and other information provided to the industry and so on. It is suggested that an annual administration fee for luxury hire car licences should be introduced and should be the same as that paid by perpetual taxi licence holders, as luxury hire car licence holders receive the same benefits as taxi licence holders⁵⁴.

Licence conditions

The Commission is able to impose conditions on luxury hire car licences, including conditions relating to the areas in which the vehicle may operate as a luxury hire car and the condition or standard of the vehicle⁵⁵. Currently all licences are issued on the condition that the hiring charge for the vehicle operating under the licence must be agreed between the hirer of the vehicle and the driver of the vehicle or the licensee before the hiring takes place. The requirement for fares to be agreed in advance is one of the significant distinctions between taxis and luxury hire cars. This condition is not included in the Act or the LHC Regulations. As it

⁵² Taxi and Luxury Hire Car Industries Act, Section 23D

⁵³ *Taxi Industry Regulations 1996* (Tas), Schedule 1.

⁵⁴ The annual administration fee and its uses will be considered further in the discussion paper on administration and enforcement.

⁵⁵ Taxi and Luxury Hire Car Industries Act, Section 23D(2).

applies to all luxury hire car licences, and is one way in which luxury hire cars are distinguished from taxis, it might be appropriate for this condition to be regulated.

The Commission is able to vary the conditions of a luxury hire car licence. Before doing so the Commission must notify the licensee of the intention to vary the conditions and allow the licensee to respond regarding the proposed variation/s⁵⁶. This is a similar provision to that which applies to the variation of licence conditions for standard taxis and WATs.

Contravening or failing to comply with a licence condition is an offence under the Act and attracts a fine of not more than 20 penalty units (\$2 000)^{57, 58}.

Transfer of licences

Licensees are able to transfer their licence to another person or have it transferred temporarily or indefinitely to another vehicle that meets the specifications of a luxury hire car⁵⁹. This could enable a licensee to sell their luxury hire car licence if they chose to do so, as there is no restriction in the Act on selling licences. However, given that unlimited licences are available at a cost of \$5 000, it is unlikely that a licensee would be able to sell a licence for greater than this price. As noted above, luxury hire car licences therefore cannot appreciate in value as perpetual assets in the same way as standard perpetual taxi licences have done. This means that, unlike in the standard taxi industry, the licence value is not a significant driver of profit in the industry.

Suspension and cancellation of licences

The Commission is able to cancel or suspend a luxury hire car licence in circumstances defined in the LHC Regulations⁶⁰. The circumstances in which a licence can be suspended are where the licensee has failed to comply with a condition of the licence, where the vehicle has ceased temporarily to be registered, or where the vehicle has ceased to be a luxury vehicle (e.g. if it has exceeded the maximum age for its class of vehicle)⁶¹. The circumstances in which a licence can be cancelled are where the licensee has failed to comply with a condition of the licence that the Commission considers to be a 'fundamental' condition, where the vehicle has ceased to be registered and is likely to remain so for a long period, or where the vehicle has ceased to be a luxury vehicle but is still being offered for hire as a luxury hire car⁶².

⁵⁶ *ibid.*, Section 23E.

⁵⁷ *ibid.*, Section 23J(1).

⁵⁸ A 'penalty unit' is the maximum fine that can be imposed by a court. Each penalty unit is \$100.

⁵⁹ *ibid.*, Section 23F.

⁶⁰ *ibid.*, Section 23G.

⁶¹ *Luxury Hire Car Regulations 2000* (Tas), Regulation 9.

⁶² *ibid.*, Regulation 10.

3.3.2. Licensing offences

The Act defines a number of offences pertaining to the operation of small passenger vehicles (other than taxis) to ensure that only people licensed and accredited to operate luxury hire cars are able to provide luxury hire car services, and that only vehicles that are licensed as luxury hire cars can be used for this purpose. This is to ensure that only operators who have met the prescribed standards in relation to vehicle safety, maintenance, driver standards and so on⁶³ can provide a luxury hire car service. In preventing people who do not hold licences from operating luxury hire car services and ensuring that all luxury hire vehicles are registered, the Act is seeking to ensure that members of the public are protected from unregistered operators, who operate outside the provisions of the legislation and may be operating in an unsafe manner. It also ensures that all operators are operating under the same rules, and that the only commercial advantage one operator might have over another will be related to the provision of services and his or her own business practices, rather than by bypassing elements of the legislation.

Under the Act a person who does not hold a luxury hire car licence must not hire out a small passenger vehicle, with a driver, for the purpose of carrying passengers for reward. The only exceptions to this are if the person is the operator of a taxi licence and the vehicle in question in a taxi, or if the person is providing a limited passenger service under the provisions of the *Passenger Transport Act 1997* (PT Act). The penalty for breaching this provision is a fine not exceeding 20 penalty units (\$2 000)⁶⁴.

A person must not, for reward, drive or use a small passenger vehicle (other than a taxi or to provide a limited passenger service) on a public street or cause or allow such a vehicle to be driven or used on a public street, if a luxury hire car licence is not in force in respect of that vehicle. The penalty for breaching this provision is a fine not exceeding 20 penalty units (\$2 000)⁶⁵.

It is also an offence for a person who does not hold a luxury hire car licence to hold himself or herself out to be the holder of a luxury hire car licence. The penalty for breaching this provision is a fine not exceeding 20 penalty units (\$2 000)⁶⁶. The Act does not include a similar offence for a person who does not hold a taxi licence to hold himself or herself to own such a licence, although there is a provision preventing a person who does not hold a WAT licence from holding

⁶³ Refer to Department of Infrastructure, Energy and Resources: *Review of the Taxi and Luxury Hire Car Industries Act 1995 Paper 2 – Operator Accreditation*, April 2006 for further information on accreditation.

⁶⁴ Taxi and Luxury Hire Car Industries Act, Section 23I(2).

⁶⁵ *ibid.*, Section 23I(3).

⁶⁶ *ibid.*, Section 23J(2).

himself or herself out to be the holder of a WAT licence⁶⁷. There no apparent reason for perpetual taxi licences to be excluded from this type of provision.

Provisions relating to the using vehicles that are not taxis as taxis are contained in the PT Act. The PT Act prohibits a person in charge of a public passenger vehicle that is not a taxi from standing or parking that vehicle on a taxi rank; describing that vehicle as a taxi, taxi-cab or cab; describing, any service for which that vehicle is used as a taxi service, taxi-cab service or cab service; or standing or parking the vehicle in a public street for the purpose of soliciting trade for that vehicle⁶⁸. This includes luxury hire cars. It is therefore an offence under the PT Act for a luxury hire car to act as a taxi, to provide a taxi service or to be described as a taxi.

There are no equivalent provisions in the PT Act prohibiting vehicles that are not registered as public passenger vehicles from being described as a taxi, although the *Traffic (Road Rules) Regulations 1999* (the Road Rules) prohibit a vehicle that is not a taxi from stopping in a taxi zone (i.e. a rank)⁶⁹. A penalty of not greater than two penalty units (\$200) applies to breaches of this Regulation. It has been argued that all vehicles, whether or not they are registered as public passenger vehicles, should be prohibited from being described as a taxi, to ensure that it is clear to the public which vehicles are taxis and which are not.

The provisions relating to the description and use of vehicles as taxis and luxury hire cars are thus contained in two Acts. The Taxi Act prohibits vehicles that are not luxury hire cars from being used as luxury hire cars, and the PT Act prohibits public passenger vehicles that are not taxis from being used as taxis. It might be appropriate to consider whether all such provisions should be included in the same legislation, and to ensure that the provisions, including penalties, are consistent. This would require consequential amendments to the PT Act.

3.3.3. Questions

4. Would increasing the cost of luxury hire car licences be effective in clarifying the distinction between taxis and luxury hire cars?
5. Should the number of luxury hire car licences be restricted? For what reason, and what advantage would this have?
6. Should luxury hire car licences be leased rather than sold? Why?
7. Should there be an annual administration fee for luxury hire car licences? Should this be equivalent to that paid by taxi operators?

⁶⁷ *ibid.*, Section 23V.

⁶⁸ *Passenger Transport Act 1997* (Tas), Section 16(2).

⁶⁹ *Traffic (Road Rules) Regulations 1999* (Tas), Regulation 182(1).

8. Is the penalty of \$2 000 for failure to comply with a luxury hire car licence condition sufficient to deter non-compliance? If not, what would be an appropriate penalty?
9. Should the condition currently imposed on all luxury hire car licences in relation to agreeing to the fare prior to the hiring commencing be included in the Act or LHC Regulations rather than imposed as a licence condition?
10. Should the legislative provisions and penalties be the same for luxury hire cars and taxis in relation to issues such as making oneself out to be the holder of a licence that one doesn't hold; describing a vehicle as something it is not; or operating a vehicle in a manner that it is not licensed for?
11. Are the penalties for licensing offences (such as operating a vehicle as a luxury hire car without a licence) of up to \$2 000 sufficient? If not, what would be an appropriate penalty?

3.4. Vehicle standards

3.4.1. Vehicle types

The types of vehicle that can be licensed as luxury hire cars are specified in Schedule 5 of the Act. Schedule 5 states that the Commission is to determine that a public passenger vehicle is a luxury vehicle if the Commission is satisfied that: 'the vehicle is being maintained at a standard that is "commensurate with luxury vehicle status"'; is a vehicle specified in the Schedule; and, if applicable, is no older than the corresponding maximum age for that class of vehicle. The vehicles specified in Schedule 5 are listed at [Appendix 2](#).

The term 'commensurate with luxury vehicle status' is not defined in the legislation.

Schedule 5 lists a series of makes and models of vehicle that are identified as suitable luxury vehicles and places these vehicles into three major groups. Group One includes vehicles such as the Ford Fairlane and LTD, the Holden Caprice and Statesman and the Mazda 929. These vehicles can only be operated as luxury hire cars to a maximum age of seven years, or twelve years for a stretched/modified version. Group Two vehicles include BMW Series 7, Cadillac, Daimler and Jaguar, and can be operated to a maximum of 15 years. Stretched versions of these vehicles have no age limit. Likewise, Group Three vehicles (Bentley and Rolls Royce) have no age limit.

These lists are not exhaustive. The Act provides for the Governor to amend the list by omitting any vehicle, by including any vehicle or by omitting the name of a vehicle and substituting

another vehicle⁷⁰. The Governor may also change the maximum age for any of the Groups of vehicles or include a maximum age for those groups of vehicles that do not have maximum ages specified⁷¹.

The Commission can determine that a vehicle not listed in Schedule 5 is a luxury vehicle, provided that the vehicle is of a comparable standard to the specified vehicles and that it is being maintained at a standard that is commensurate with luxury vehicle status⁷². In doing so, the Commission must allocate the vehicle to one of the groups⁷³. That vehicle is then subject to the same age limits as apply to the other vehicles in that group⁷⁴.

In addition, the Commission has the power to determine that a vehicle in the list (or added to the list by the Commission) whose age exceeds the prescribed maximum age is a luxury vehicle. To do this the Commission must be satisfied that the vehicle is being maintained at a standard that is commensurate with luxury vehicle status; and for vehicles from Group 1 or Group 2, must impose conditions on the licence limiting the area of operation of the vehicle as a luxury hire car to a non-metropolitan area^{75, 76}.

Schedule 5 of the Act is now outdated. Many of the vehicles specified in Schedule 5, such as the Mazda 929, are no longer being manufactured. While many of these vehicles are still on the road and being used as private vehicles, for at least some of these models, even the most recently manufactured vehicles would be aged greater than the allowable maximum age for luxury hire cars and thus could not be used as luxury hire cars in 2006.

There is no guidance in the Act provided to assist the Commission in determining whether a vehicle is of a comparable standard to a listed vehicle, or to indicate what aspects of the vehicle should be comparable. For example, it is not specified whether this applies to the physical size of the vehicle, the seating capacity, the engine capacity, the interior fittings, the external appearance and so on. It is also not clear whether, if a vehicle was comparable to the other vehicles in most, but not all characteristics, whether it could still be classified as a luxury vehicle.

In Western Australia (WA) the Director-General may approve vehicles not specified for licensing as small charter vehicles provided that they meet a number of specifications, the most

⁷⁰ Taxi and Luxury Hire Car Industries Act, Section 23K (1).

⁷¹ *ibid.*, Section 23K(2).

⁷² *ibid.*, Schedule 5 Item 3.

⁷³ *ibid.*, Schedule 5 Item 4.

⁷⁴ *ibid.*, Schedule 5 Item 5.

⁷⁵ *ibid.*, Schedule 5, Item 2.

⁷⁶ Regulation 13 of the Luxury Hire Car Regulations, Regulation 13, defines an area as a non-metropolitan area if no part of the area is within –

- (a) 8 kilometres of the Burnie Post Office; or
- (b) 9 kilometres of the Devonport Post Office; or
- (c) 12 kilometres of the General Post Office at Hobart; or
- (d) 8 kilometres of the General Post Office at Launceston; or
- (e) the precincts of Hobart Airport or Launceston Airport.

significant of which is that they must cost, when new, an amount equivalent to or greater than the threshold figure at which luxury vehicle tax applies (for Group B luxury vehicles – Fairlane, Statesman etc – and people movers) or at least twice the amount of the threshold figure at which luxury vehicle tax applies (for Group A luxury vehicles – Bentley, Rolls Royce etc). At March 2006 this amount was \$57 009 (for the 2004–05 financial year). They must also be classed as passenger vehicles and have a minimum wheel base of 2800 millimetres.

Many other jurisdictions, in terms of technical specifications for luxury hire cars/limousines, require only that the wheelbase is greater than 2800 millimetres, but all require that the vehicles are well maintained. Some jurisdictions provide lists of acceptable vehicles and others do not.

The list in the Act does not include any ‘people mover’ or four wheel drive vehicles that are now available, some models of which could be argued to have luxury status. These are specifically listed as a class of luxury vehicle in WA. Some jurisdictions specifically prohibit station wagons from being used as hire cars. For example, in NSW a hire car must be either a sedan, a coupe or a convertible. Only wagons over the age of 30 years can be registered as luxury hire cars.

The major problem with specifying vehicles is that the list of suitable vehicles can become outdated quickly, as has occurred in Tasmania, with some vehicles ceasing production and new vehicles entering the market. It can then be difficult to judge whether a new model is equivalent to those already deemed suitable.

Regulating specifications such as the dimension of the wheelbase and/or the cost of the vehicle could assist in overcoming this problem, or could cause further problems. If wheel base alone was used as the criterion, there is potential the operators could seek to have larger ‘standard’ vehicles that might not be considered to be ‘luxury vehicles’ registered as luxury hire cars on the basis that they met the wheel base standard. The luxury vehicle tax threshold could then be used to rule those vehicles out from being used as hire cars.

However, if used alone, the luxury vehicle tax threshold could rule out some vehicles that might currently be considered to be ‘luxury’ because they cost slightly less than the threshold. (For example, a base model Holden Statesman 3.6L retails for \$56 990⁷⁷, and a Statesman is generally accepted as a luxury vehicle.) Likewise, it might be possible for a non-luxury vehicle that met the wheel base standard to have optional components added that would take its price over the threshold. It would need to be specified (as is done in Victoria when considering

⁷⁷ www.holden.com.au – accessed 22 March 2006.

whether a vehicle not specified in the requirements for hire cars⁷⁸) that the price considered will be the manufacturer's recommended retail price for the vehicle with no optional extras included.

It is appropriate to consider whether the list of approved vehicles, if maintaining such a list is deemed necessary, should be retained in the Act, included in the LHC Regulations or determined by the Minister. At present amending the list would require either an amendment to the Act, which must be approved by Parliament, or approval from the Governor in accordance with Section 23K. If the list was in the LHC Regulations, amendments would require the approval of the Governor. Either process is likely to be complicated, time-consuming and resource intensive. An alternative could be to provide in the Regulations for the Minister to determine a list of approved vehicles that would be given effect by publication in the *Government Gazette*. This could be updated as required with the approval of the Minister.

3.4.2. Relationship to taxis

As noted in Section 2.5 the majority of the 46 vehicles operated under luxury hire licences in Tasmania are the Ford Fairlane, Holden Statesman or similar vehicles. These types of vehicles are also used as taxis, with some taxi operators providing a 'premium' taxi service, whereby the vehicles are maintained in immaculate condition, drivers dress formally and provide a higher level of service in terms of assistance to clients than might normally be expected from a taxi service. These operators are not able to charge higher fares for this service, but are likely to operate on the assumption that providing a high standard of service will result in increased customer loyalty, repeat business and tips.

The distinction between such a taxi and a luxury hire car of a similar model may not always be apparent to consumers, especially if the signage on the taxi is very low key. The main differences from a customer's perspective will be the presence of a taxi top light and a taximeter (although there is presently no restriction on luxury hire cars from having a meter installed – refer to Section 3.7 for further discussion on this issue).

3.4.3. Age of vehicles

The age to which a luxury hire car can operate is determined by the class of vehicle it is, with the lower standard vehicles able to operate to a maximum of seven years in the metropolitan areas (or 12 years if stretched) and higher standard vehicles able to operate to 15 years, or indefinitely if stretched. There is no age limit for the more 'prestigious' makes of vehicle provided that they continue to be maintained at the appropriate standard. This is compared to

⁷⁸ Department of Infrastructure, Victorian Taxi Directorate: *Conditions Governing the Operation of Commercial Passenger Vehicles Classified As Metropolitan Hire Cars under Section 145 of the Transport Act 1983*. The Statesman is actually specified in the requirements, so the price is not an issue

eight years for a metropolitan taxi or ten years for a non-metropolitan taxi⁷⁹ or WAT⁸⁰. Taxis also have maximum age limits on entry – i.e. they will not be allowed to operate as a taxi for the first time unless they are aged under five years (metropolitan) or seven years (non metropolitan)⁸¹. There is no maximum age for entry to the luxury hire car market.

The age limits for each type of vehicle vary between jurisdictions, with some having no age limits. Some jurisdictions have no age limit on the very high standard vehicles such as the Bentley and Rolls Royce, whereas some (e.g. Victoria and NT) have restrictions on these types of vehicles. Some jurisdictions also have a maximum age at which a vehicle can begin to operate as a hire car. For instance in the NT, vehicles aged greater than three years cannot be newly registered as hire cars. Age limits on entry were removed in Victoria in 2004.

NSW removed all age limits from its specifications in 2001. This was due to complications associated with assigning unlisted vehicles to groups to determine the age limit for those vehicles. NSW considers that the age limits were unnecessary, as vehicles are still required to be maintained in an immaculate condition, and must meet the relevant safety standards. Instead, market forces determine whether a vehicle will remain on the road. If customers are unhappy with a particular vehicle, they will not use it. Hence, if given the choice between a brand new vehicle and a ten year old vehicle, most customers, given the fact that they are paying premium rates, will choose the newer vehicle. As a result there are very few older vehicles being used as luxury hire cars in NSW. (This would not apply to classic and vintage cars that are used for special occasions rather than for executive and corporate travel, which is the main market for standard luxury hire cars.)

The distinction between luxury hire cars and taxis could also be clarified by introducing a maximum age on entry for luxury hire cars, to require a new vehicle on entry, or by reducing the maximum age for the lower standard of vehicles from seven years to five or six years. As a metropolitan taxi has a maximum entry age of five years and a maximum operating age of eight years, increasing the gap between the two would clearly provide for a greater degree of differentiation. This would also have the flow on effect of increasing the cost of entry to the market and therefore possibly increasing fares, to provide a further distinction.

It could also be argued that, given the rate at which vehicle technology, features and standards are progressing, the current maximum ages are no longer relevant for true luxury vehicles and that most six or seven year old vehicles, even the more prestigious models, regardless of their original status, can no longer be considered to be luxury vehicles. Therefore to ensure the highest standards of vehicles, it could be argued that vehicles used as luxury hire cars should

⁷⁹ Taxi Industry Regulations, Regulation 16(3).

⁸⁰ Taxi and Luxury Hire Car Industries Act, Schedule 6.

⁸¹ Taxi Industry Regulations 1996, Regulation 16(2).

be new on entry and that the maximum age should be reduced to four or five years for all vehicles. This would ensure that only the most modern vehicles were being used as luxury hire cars. Older model 'classic' or 'vintage' vehicles could still be used as public passenger vehicles, but they would have to be used to provide limited passenger services under the PT Act, rather than as luxury hire cars.

3.4.4. Vehicle standards

At present vehicles are required to be maintained at a 'standard that is commensurate with luxury vehicle status'⁸². There is no guidance in the Act or the LHC Regulations as to what this standard might be, and it might be difficult to do so, given the wide range of vehicles able to be used as luxury hire cars. Any standard that was too specific, for instance, specifying that seats must be leather or that the sound system must have more than four speakers, might rule out a vehicle that in all other respects would be considered to be a luxury vehicle.

In NSW vehicles are required to be 'very well presented and in excellent condition, with no visible signs of damage to the paintwork, body, fittings or interior'⁸³.

The NT has comprehensive standards governing the condition of limousines and hire cars. Some of these requirements are based on the Australian Design Regulations (e.g. in relation to some dimensional specifications), whereas others are specific standards relating to the condition of the vehicles and the materials permitted to be used inside the vehicle. For example, vehicle exterior body panels must be in a sound condition correctly aligned, free of dents, scratches, accident damage, corrosion and dirt, and all exterior paintwork must be of the same colour and lustre, and must also be free of scratches, chips, blemishes and dirt⁸⁴. Vehicle interior surfaces including seats, head rests, floor coverings, trims and seatbelts must be in a sound condition, free of dirt, stains and damage. Original seat and head rest coverings (if not fitted with removable covers) or any removable seat and head rest covers fitted, are to be non-absorbent⁸⁵. Seat coverings must be velour, leather or similar quality covering and if fitted, additional seat covers must be tailored premium quality sheepskin⁸⁶. Wind down windows must be electrically operated, and carpet that matches the rest of the vehicle trip must be fitted on the vehicle floor areas⁸⁷. There are also specifications for accessories and vehicle modifications, as well as ride quality and comfort.

These requirements are very prescriptive and have not been introduced in Tasmania because of the high level of detail involved and the difficulty in enforcing such requirements. This issue

⁸² Taxi and Luxury Hire Car Industries Act, Schedule 5, Item 1.

⁸³ NSW Ministry of Transport: Specifications for Private Hire Vehicles.

⁸⁴ Northern Territory Government, Northern Territory Private Hire Car & Limousine Requirements and In-Service Maintenance Standards, page 7.

⁸⁵ *ibid.*

⁸⁶ *ibid.*, page 8.

⁸⁷ *ibid.*

was discussed in DIER's discussion paper on operator accreditation, which noted that, in relation to the possible regulation of vehicle quality standards for taxis, decisions on what the standards should be are likely to be arbitrary and that judgements in relation to what was considered 'clean' (for example) would be subjective and would thus vary between the people responsible for enforcing the standards⁸⁸. In relation to quality standards for taxis, this paper also noted that

'... with limited resources, it is argued that Transport Inspectors' time is more effectively spent focusing on unroadworthy vehicles rather than vehicles that are dirty or scratched. The role of Transport Inspectors is to ensure that vehicles are safe to be driven on public roads, not to ensure that vehicles look good. Unsafe vehicles can put road users' lives at risk, whereas a scratch on the side of a taxi is a far less serious issue that is unlikely to affect anyone's safety. Focusing on 'cosmetic' issues would have to be at the expense of safety issues, which are significantly more important. The consequences of allowing unsafe vehicles on the road are potentially much more serious than the consequences of vehicles being poorly presented⁸⁹.'

The paper argued that the responsibility for setting and enforcing vehicle quality standards in taxis should rest with operators, or possibly with radio rooms.

However, vehicle quality is one of the important features that distinguish luxury hire cars from taxis, and the Act requires that vehicles registered as luxury hire cars be maintained at a standard that is commensurate with luxury vehicle status. There is no such requirement for taxis. If such a requirement is retained, then it is necessary to have some guidance as to what such a standard would be, and some means of enforcing the standard.

In relation to what the standard might be, a statement similar to that used in NSW – i.e. that 'the vehicle must be very well presented and in excellent condition, with no visible signs of damage to the paintwork, body, fittings or interior'⁹⁰ – might be more appropriate than a comprehensive list of standards covering every aspect of the vehicle as is the case in NT.

In relation to how the standards might be enforced, as noted above, the priority for Transport Inspectors is on safety issues, not on cosmetic vehicle quality standards. This is not going to change with the current levels of resources, so alternative mechanisms of enforcement will need to be developed. The quality of the vehicle might be able to be checked against the standards at the six-monthly inspections, but adherence to the standard outside these inspections would have to fall to the operators. Operators would need to ensure that anything that detracted from the appearance of the vehicle (e.g. a small dent or scratch to the body or the interior of the vehicle) was attended to quickly to ensure that the vehicle's status as 'luxury' was maintained.

The most obvious place for this requirement is the Passenger Transport Operator Accreditation Scheme, which seeks to ensure that operators of passenger transport services (including luxury

⁸⁸ Department of Infrastructure, Energy and Resources: Paper 5 – Operator Accreditation, page 27.

⁸⁹ *ibid.*

⁹⁰ NSW Ministry of Transport: Specifications for Private Hire Vehicles.

hire car operators) are accountable for ensuring the safety and quality of their services. The discussion paper on accreditation included a discussion on the development and enforcement of vehicle quality standards for taxis, which could equally apply to luxury hire cars⁹¹.

An alternative might be for the luxury hire car industry to engage independent auditors to carry out annual inspections of vehicle standards in the same way that other sectors of the tourism industry are audited, such as the awarding of a 'star' rating to accommodation. A set of criteria could be developed by the industry defining what was considered to be 'commensurate with luxury status'. Operators would then submit their vehicles for inspection to the quality auditors on an annual basis. The results of this audit could then be used to determine whether the vehicle could continue to be used as a luxury hire car. This might be funded through the increased licence fee, as discussed in Section 3.3.1, or could be paid for separately by the vehicle owner or operator.

The NSW experience in removing age standards for luxury hire cars might also be applicable to quality standards. It could be argued that if customers are paying for a premium service, they are not going to use a vehicle that is damaged or poorly maintained if there are other vehicles that are immaculately presented providing the same service. It would therefore be in the business interests of operators to ensure that their vehicles are maintained in as close to pristine condition as possible. However, this would require most operators to maintain very high standards, which would be expected to force non-compliant operators to raise their standards in order to remain viable and competitive.

3.4.5. Distinction from taxis

Another way in which luxury hire cars and taxis might better be distinguished would be to require taxis to conform to particular specifications, such as in relation to livery or signage. For example, in Victoria all taxis must be coloured a specific shade of yellow. In the NT, taxis must be white, unless approval is granted for a network to use a different colour, which must then be used on all taxis in that network⁹². Taxis could also be distinguished by requiring that the word 'taxi' be prominently displayed on a specified panel of the vehicle, such as the doors or bonnet.

Such an approach would make it much easier for customers to identify a taxi and to avoid possible confusion between taxis and vehicles that are not taxis, including luxury hire cars. However, some taxi operators might object to such a proposal on the grounds that this would detract from the appearance of an otherwise 'high quality' premium taxi.

⁹¹ Department of Infrastructure, Energy and Resources: *Paper 5 – Operator Accreditation*, Section 3.2.1.

⁹² Northern Territory Government, Department of Infrastructure, Planning and Environment: *Northern Territory Taxi Requirements and In-Service Maintenance Standards*, Version 1.1, August 200. (sourced from <http://www.ipe.nt.gov.au/whatwedo/taxis/in-service-maintenance-standards.html> accessed 13 April 2006).

3.4.6. Questions

12. How should vehicles that are suitable for use as luxury hire cars be determined? Should suitable makes and models be listed, and if so, what would be the reasons for choosing particular vehicles and ruling out others? How can this list be maintained (e.g. should it be in the Act or the Regulations)?
13. What issues should be taken into account when determining the types of vehicles able to be used as luxury hire cars? Is a standard based on a minimum wheel base and/or the luxury tax threshold appropriate? Are there other measures that could be used?
14. Should sedans and stretched sedans be the only types of vehicles able to be used as luxury hire cars, or should vehicles such as four wheel drives, people movers, wagons, convertibles and other vehicles also be able to be used?
15. Should the seating capacity of a luxury hire car be limited? To what?
16. What age limits should apply to luxury hire cars? Are the current age limits too high to ensure that vehicles used as luxury hire cars are genuinely luxury vehicles?
17. Should there be a minimum age on entry for luxury hire cars?
18. Which vehicles, if any, should be exempt from age limits?
19. What is meant by a 'standard that is commensurate with luxury vehicle status'?
20. What role should the Government have in setting and enforcing such a standard? What role should the industry have?
21. Could independent auditors be used to assess vehicle standards? How should such audits be funded?
22. Should prescriptive standards for vehicle quality and maintenance be introduced for luxury hire cars? Who should develop and enforce these standards?
23. Is the accreditation scheme the means by which enforcement of luxury vehicle quality standards could best be enforced?
24. Should requirements for taxi exteriors (e.g. the colour or signage) be introduced to better distinguish taxis from luxury hire cars? What should these requirements be?

3.5. Fares

3.5.1. Regulation of luxury hire car fares

The licence conditions for luxury hire cars require that the fare must be agreed in advance between the hirer and the driver or licensee. This is largely consistent with requirements in other jurisdictions, where fares are generally not regulated. In WA the Government sets a minimum fare, which is higher than the equivalent taxi fare. Operators are permitted to charge the minimum fare or anything above it. To ensure that fares are being adhered to, the Government can inspect operators' records.

It is reasonable to assume that, as luxury hire cars provide a service that is expected to be at a premium to taxis, the fares should be accordingly higher than taxi fares for similar journey lengths. DIER is aware of concerns from some taxi operators that this may not currently be the case in practice.

By not regulating fares, there is a distinction between taxis and hire cars, as minimum fares for taxi are regulated, and these are generally the fares that are charged. However, this allows luxury hire car operators to charge the same fares as taxis, or less, should they seek to undercut taxi prices and compete in this manner, as noted in Section 3.1.1. Even with the higher costs of a luxury vehicle compared to a standard taxi, given the significantly lower cost of luxury hire car licences, there is scope for luxury hire car operators to charge lower fares without incurring a significant loss. DIER is not aware of whether this does occur, or whether other operating costs associated with luxury hire cars prohibit this practice.

3.5.2. Minimum fares or booking periods

Prior to 1999, minimum fares and minimum booking times were regulated. These provisions were removed from the legislation in the 1999 reforms. The primary reason for this was that it was considered that there were more effective ways of distinguishing between luxury hire cars and taxis, and that any benefits in terms of creating such a distinction in this manner were more than offset by the costs associated with monitoring compliance.

The introduction of a minimum fare could overcome the issue of luxury hire car operators undercutting taxis. Enforcement of such a provision could require operators to keep detailed records of every journey undertaken by their vehicles (which would be expected under the operator accreditation guidelines), and possible random or routine inspections of these records by DIER officials, as occurs in some other jurisdictions.

Likewise, a minimum booking period could be introduced. This would have similar advantages to the minimum fare in that it would discourage customers from hiring luxury hire cars for shorter journeys that could easily be undertaken in a taxi.

It would be difficult to implement and ensure compliance with minimum fares and/or minimum booking periods other than through inspection of records. It is unlikely that DIER would be adequately resourced to undertake such inspections, or that such inspections could be justified in terms of the priorities of the Transport Inspectors at this time (refer to the discussion in Section 3.4.4). This issue is discussed further in Section 3.6.3 and will be considered in a future discussion paper on administration and enforcement.

In terms of meeting users' needs, it may also be that regulating minimum fares or booking times restrict customers' choices around the type of vehicle they would choose to use to undertake a journey. For instance, a customer might wish to hire a luxury vehicle to attend a special event, a journey likely to take less time than a regulated minimum booking period. However, with minimum fares and/or minimum time periods, the cost could become prohibitive, requiring the customer to book a taxi. While they might request a 'premium' standard taxi, they could not be guaranteed to obtain such a vehicle, unless they had the direct contact details of the driver of such a vehicle.

3.5.3. Fares to be agreed in advance

The requirement that the fare be agreed in advance between the hirer and the licensee or driver was included as a licence condition in 2003 and is a condition of all current luxury hire car licences. The reason for introducing this condition was largely to ensure that customers could be certain of the price of a journey before beginning the hiring. Whereas customers can generally be assured that taxi fares will be the same across all taxis (or if not, that alternative fares are displayed) because of the regulation of minimum taxi fares, this is not the case with luxury hire cars. Operators can charge a fare that they consider reasonable.

Given that this condition applies to all operators, and is a reasonable condition in terms of protecting consumers, it might be appropriate for the condition to be regulated. This issue is connected to the issue of the use of taximeters in luxury hire cars and is discussed in further detail in Section 3.71.

3.5.4. Questions

25. Do luxury hire cars compete with taxis on the basis of fares?
26. Should a minimum fare or minimum booking time be reintroduced? If so, what would be the advantages of doing so? How could such requirements be enforced?
27. Should the current condition applied to all luxury hire car licences regarding the agreement of fares in advance be included in the LHC Regulations?

3.6. Hiring arrangements

In addition to the requirement for fares to be agreed in advance, there are a number of other requirements relating to the hire of luxury hire cars. In particular, a luxury hire car cannot be hired out unless it was booked in advance⁹³. The penalty for this offence is a fine not exceeding 10 penalty units (\$1 000). Licensees and drivers are not permitted to solicit for business in a public place or to allow others to solicit for business on their behalf⁹⁴. The penalty for these offences is a fine not exceeding 10 penalty units (\$1 000) for a first offence and a fine not exceeding 20 penalty units (\$2 000) for a second or subsequent offence. The same restrictions and penalties apply to taxis⁹⁵. However, taxis are permitted to stand for hire on taxi ranks and to be hailed in the street, whereas luxury hire cars are not.

3.6.1. Pre-booking

There has been debate within the taxi and luxury hire car industries as to the definition of 'booked in advance'. In some cases it is obvious that work is pre-booked. For example, if a booking is made several days or hours prior to the journey it is clearly pre-booked. However, it is not clear whether a booking made by phone to the booking office or mobile phone to the driver for an immediate pickup could be considered to be pre-booked.

In one sense, such a booking could be considered to be booked in advance in that it is booked before hiring takes place, even if the lag time is only a period of several minutes taken for the vehicle to leave its base and arrive at the pickup destination. It could also be considered to be pre-booked in the sense that the booking was made via phone rather than from the street or from a rank.

However, it might also be argued that such a booking is similar to a person calling a radio network for a taxi, and that an immediate pickup would not be considered to be booked in advance. If this were the case, it would be difficult to determine where the cut-off point should be for what could be considered to be a pre-booking and how such a cut-off point could be justified. For example, if the cut-off was 30 minutes, it could be argued that the pickup location for the booking was 30 minutes away from the vehicle's base, so a 'pre-booking' of a vehicle for a pickup in 30 minutes could still effectively be a booking for an immediate pickup.

On the other hand, placing a time limit on pre-bookings could disadvantage customers that prefer to travel in luxury hire cars, but are not always able to know the time they need to travel. Such customers would effectively use hire cars as substitutes for taxis and would expect that

⁹³ Luxury Hire Car Regulations, Regulation 12.

⁹⁴ *ibid.*, Regulation 11.

⁹⁵ Taxi Industry Regulations, Regulation 24(8) and (9).

they should be available when required. Restricting hire cars' ability to respond to on-demand calls also places a restriction on the customer's ability to use the service provider of their choice.

If such a time limit were to be introduced, it would also be difficult to justify why that particular limit was chosen.

As with other issues, enforcement of any such requirement would be difficult, if not impossible. It could also result in operators 'bending' the rules in order to comply with the letter of the regulations. For example, they might inform customers that no vehicle was available within the next 30 minutes, but that the vehicle would arrive after that time.

To actually determine what a pre-booking is, and the enforcement of this provision, is extremely difficult and to attempt to do so is likely to cause as many problems as it seeks to solve. Different states manage this issue in different ways, but most rely on bookings being recorded as a way of confirming that they are pre-booked. For example, in Victoria, the hire car licence conditions require that the licensed vehicle can only carry passengers when:

- (a) a booking has been made at a time prior to commencement of the hiring; and
- (b) the hirer has arranged for the licensed vehicle to attend at a specified address or location to pick up the hirer or other passenger/s; and
- (c) the licensed vehicle is required to travel to that address or location in order to fulfil the hiring; and
- (d) in the case of a passenger/s arriving at Melbourne Airport by airplane, a booking has been made prior to the arrival at Melbourne Airport of the flight carrying that passenger⁹⁶.

In the NT the driver is required to return to the base after completing a hiring, unless it is not practical to do so before the next pre-booked hiring commences.

A clearer definition than 'booked in advance' might be that the hiring must be 'booked', as opposed to picked up from the street or a rank. However, as these methods of hiring are explicitly prohibited by the LHC Regulations, the requirement for luxury hire cars to be booked might be irrelevant. An approach similar to that used in Victoria might be more appropriate, where there is a requirement for the vehicle to travel to a specified address to commence the hiring and for detailed records to be kept of the bookings in a logbook. However, for this to be effective, there would need to be an adequate level of enforcement. As noted above, this will be the subject of a future discussion paper on administration and enforcement.

⁹⁶ Department of Infrastructure, Victorian Taxi Directorate: *Conditions Governing the Operation of Commercial Passenger Vehicles Classified As Metropolitan Hire Cars under Section 145 of the Transport Act 1983*.

3.6.2. Taxi ranks and on-street touting

Luxury hire cars are not permitted to stand for hire on taxi ranks or to solicit for business in a public place. Stopping a vehicle on a taxi rank if it is not a taxi is prohibited under the *Traffic (Road Rules) Regulations 1999*⁹⁷ (the Road Rules). There is a penalty of a fine not exceeding \$200 for breaching this provision. A driver that accepts a hiring from a rank could therefore be prosecuted under both the Road Rules (for stopping on a taxi rank) and the LHC Regulations (for undertaking a hiring that was not booked in advance).

DIER has received allegations of luxury hire cars standing for hire on ranks and in public streets. These have been investigated, but not proven. The primary focus of the compliance activities undertaken by Transport Inspectors is on-road safety and road safety related matters. In light of the failure of DIER's investigations to detect any behaviour of the kind that has been alleged, it would be difficult to justify the diversion of any further resources to investigate these matters in the short term. The issue of the use of Transport Inspectors to monitor issues other than those related to road safety and vehicle road worthiness was discussed in Section 3.4.4.

It should be noted that a prosecution does not necessarily require eyewitness evidence from a Transport Inspector. Rather, it is open to any member of the public who observes what they believe to be illegal behaviour to make a written complaint to DIER. The value of doing so would be limited unless the person making the complaint is also prepared to appear as a witness if the matter proceeds to prosecution.

Ensuring that practices such as touting and accepting walk-up and rank work by hire car drivers are prevented is intended to ensure that the distinction between taxis and luxury hire cars is maintained and that undesirable behaviour on the part of taxi drivers and luxury hire car drivers as a result, which is said to have included physical altercations between drivers, is minimised.

One way in which this could be better regulated is for luxury hire cars to be restricted from parking on public streets unless they are waiting for a booking, as is the case in the NT, or are clearly marked as 'not for hire'. It might be argued that if a hire car is not waiting for a booking, it cannot legally pick up a passenger; therefore it cannot be for hire and should be marked as such.

There may also be a need to better educate taxi and luxury hire car users about the type of work that each vehicle can and cannot do, so that they do not seek to engage a vehicle to carry out work it is not legally able to perform.

⁹⁷ *Traffic (Road Rules) Regulations 1999* (Tas), Regulation 182.

3.6.3. Reporting requirements

Other states require operators to keep detailed records of all hirings undertaken. This may include the name, address and telephone number of the hirer, details of the vehicle used to undertake the hiring, details of the driver, address of the origin and destination of the journey, date of the hiring, pickup and drop off time, the flight number of the passenger's flight if being picked up from the airport and proof of payment.

In Victoria, there are detailed procedures for keeping such records. For instance, the records must be kept in a diary with bound pages and a protective cover, and the diary must be kept in the vehicle to which it relates⁹⁸. In general, these records are subject to inspection by the relevant authority, such as the Transport Department or equivalent.

Tasmania does not require detailed records to be kept, other than records that must be kept as part of the Accreditation scheme. This includes records relating to vehicle and driver administration. It does not cover keeping records of customers or of individual hirings.

It is suggested that more detailed record keeping arrangements be introduced for luxury hire car operators, similar to the arrangements in other states, so that the details of every hiring, including the customer's name and address, the pickup and drop off points and times and payments are recorded. DIER could issue a logbook for the purpose of keeping these records, to ensure that all operators were keeping the same types of information in the same format. These logbooks could be subject to inspection, either randomly, as part of accreditation audits or in investigating allegations of unlawful activities, such as picking up passengers from taxi ranks.

The records could also be used to increase security in luxury hire cars in lieu of having security cameras installed. This issue is discussed further in Section 3.7.2.

3.6.4. Use of radio networks

DIER understands that some luxury hire cars operate out of radio rooms in the same way as taxis, and there have been concerns expressed by some parts of the taxi industry about this practice. In particular complaints have been lodged with DIER that where there are no taxis available from the radio room, the radio room is dispatching luxury hire cars to undertake the work.

The operation of luxury hire cars and taxis from shared premises, or through a shared telephone number, is not prohibited. However, Section 16(2) of the *Passenger Transport Act 1997*

⁹⁸ Victorian Taxi Directorate: Conditions Governing the Operation of Commercial Passenger Vehicles Classified As Metropolitan Hire Cars.

provides that a vehicle that is not a taxi must not be described, by any means, as a taxi. If a customer making taxi booking is sent a luxury hire car without their knowledge or consent, this would be an example of a vehicle that was not a taxi being described as such. This practice could only legally occur if the radio room advised the customer that no taxis were available and asked if they would accept a luxury hire car. The hiring would then have to take place under the conditions associated with luxury hire cars. In particular, the fare would have to be agreed in advance with the customer. It would be reasonable to assume that the fare offered would have to be the same as it would have been if the customer had travelled in a taxi, although how this could be calculated could be a problem (refer to Section 3.7.1 for a discussion of the use of taximeters in luxury hire cars).

It is argued that this arrangement 'takes work away' from the taxi industry and that if no taxis are available the radio room should refer the customer to another taxi network. It is clearly not in the business interests of the radio room to do this. Provided that the customer accepts a luxury hire car instead of a taxi and that the fare is the same as it would have been for a taxi, there is no obvious reason why the customer should have to be inconvenienced by having to call another radio room. Ultimately this arrangement might result in a loss for the hire car operator, as they might have to charge a person less for the journey than they might have charged for the same journey under a normal hire car hiring. On the other hand, if the car was not busy, any fare might be better than no fare. The operator would need to balance the costs and benefits of undertaking such hirings before agreeing to participate in such an arrangement.

As with other issues pertaining to the distinction between taxis and luxury hire cars, the enforcement of these provisions relies largely on the operators doing the right thing, with the primary focus of the compliance activities undertaken by Transport Inspectors being on road safety and road safety related matters. However, where operators are alleged to be operating unlawfully, DIER welcomes complaints, backed up by evidence, from members of the public to assist in its investigations.

If radio rooms were to be regulated, which is an issue for discussion in a future discussion paper, there might be an opportunity for this type of activity to be monitored further.

3.6.5. Questions

28. Can the term 'booked in advance' be defined? Should this be regulated?
29. Should there be a cut-off point beyond which time a booking is not considered to be pre-booked? Is a phone request for an immediate pickup still an advance booking?
30. How can the use of taxi ranks be better monitored, and use by vehicles other than taxis be deterred, detected and/or prosecuted?

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| 31. | Should luxury hire cars be prohibited from parking in public streets if they are not waiting for a pre-booking, unless they are clearly advertised as not being for hire? |
| 32. | Would the introduction of stronger record-keeping arrangements in relation to customers and hirings, in a logbook issued by DIER, assist in ensuring that luxury hire cars only undertake pre-booked work? How could these records be effectively monitored? |
| 33. | How many luxury hire cars operate out of radio rooms that are shared with taxis? Should this be allowed? Is there adequate protection for customers in allowing such arrangements, in particular where a luxury hire car is dispatched when no taxis are available? |

3.7. Use of taxi equipment in luxury hire cars

3.7.1. Taximeters and dispatch systems

The use of taximeters and electronic dispatch systems in luxury hire cars has been opposed by the taxi industry, as it believes that the use of such technology should only be permitted in taxis. Some jurisdictions expressly prohibit the use of such technology, whereas others are silent on the issue. There is nothing in the current Tasmanian legislation prevent the installation of electronic dispatch systems or electronic fare meters in luxury hire cars.

Meters

Section 3.5 considers the issue of fares, which must be agreed in advance between the hirer of the vehicle and the driver. It has been argued that this condition would prevent the driver of a luxury hire car from using a taximeter to determine fares. In those jurisdictions that do not specifically prohibit the use of meters in hire cars, this is the basis on which it is deemed that meters are not used in hire cars.

The actual licence condition states that 'the hiring charge . . . must be agreed in advance'. It has been argued that an agreement on 'the hiring charge' between the driver and the customer could be on the per kilometre rate rather than the total fare, and that the meter therefore is used to calculate the total fare at the end of the journey, in the same way that the driver might have used a calculator.

This could be resolved by specifying that the total amount of the fare must be agreed in advance. This is the case in Queensland, where the legislation states:

'The driver of a limousine must not hire the vehicle unless . . . the amount to be charged for the hiring is agreed with the prospective hirer before the vehicle is hired⁹⁹'.

This indicates that a meter could not be used for estimating kilometre distance, as the total fare for the hirer would have already been agreed to before the journey began.

However, some operators might use the distance as a basis for calculating fares and might argue that if the distance between the pickup point and the destination is not known, it might not be possible to provide an exact amount for the fare in advance. On the other hand, the customer might not be in a position to know the distance between the two points and it might be in their interests to be provided with the details of the exact fare, rather than a per kilometre rate. Ultimately, it would be the responsibility of the operator to be able to estimate distances and times and to determine an appropriate fare that would be acceptable to the customer. If the fare was not acceptable, the customer would be unlikely to proceed with the hiring and would seek an alternative means of transport or attempt to negotiate a better fare.

It is argued that prohibiting taximeters in luxury hire cars would assist in maintaining the distinction between taxis and luxury hire cars, as passengers would note the absence of a meter and therefore not assume that the vehicle was a taxi.

If taximeters were to be permitted, it is argued that they should be subject to the same conditions as those applying to taximeters in taxis, in particular that they should be approved and sealed in accordance with the provisions of the Taxi Regulations¹⁰⁰. Thus, the fare set by the operator would be consistently applied to all customers, which would ensure that the customer paid the rate that they were quoted.

Dispatch systems and mobile phones

The issue of dispatch systems is relevant to the issues covered in Section 3.6 relating to the pre-booking requirement. Some states prohibit the use of electronic dispatch systems in luxury hire cars. This could assist in further distinguishing between taxis and luxury hire cars, in the same way that the absence of a taximeter signals to a customer that the vehicle is not a taxi. It could also assist in the implementation of the advance booking requirement, for example by not enabling jobs to be dispatched directly from the booking office to the vehicle.

In most states the use of mobile phones are not normally prohibited, so there is still a means by which drivers can remain in contact with their base, if they have one, and which also provides an avenue for a customer to contact a driver directly to request a pickup, although this type of booking may be prohibited by other requirements. While dispatch systems can make

⁹⁹ *Transport Operations (Passenger Transport) Regulation 2005* (Qld), Section 108.

¹⁰⁰ Taxi Industry Regulations, Regulations 25, 26 and 27.

scheduling bookings and pickups easier for radio rooms and drivers, mobile phones can serve the same purpose.

There is no restriction on drivers accepting hirings by mobile phone in Tasmania, provided that the hiring is booked in advance. However, as noted above, it is difficult to judge the point at which such a booking would cease to be considered 'in advance', which makes the use of mobile phones in luxury hire cars difficult to regulate. In Victoria, all bookings must go through the operator's registered business office. This means that drivers can have mobile phones, but cannot use them to take bookings from clients. It could be argued that this restricts the customer's ability to make a booking in a manner that best suits their needs.

It could be argued that the use of dispatch systems and other communication devices, including mobile phones, is not consistent with the provision of a 'premium' service. Passengers choosing to pay for a higher standard of service might expect to travel in a vehicle free from such equipment and the associated distractions to the driver. While this may be a strong argument for prohibiting the use of dispatch systems and radios in luxury hire cars, prohibiting mobile phones altogether might be unreasonable. Drivers may need to be in contact with their base (or with their family) during their shift, and likewise, the base should be able to contact the drivers when necessary. Mobile phones are a useful tool in ensuring the efficient operation of the business.

In the NT, mobile phones are permitted in limousines, but must be 'installed in such a manner as to maintain the aesthetics of the vehicle and must not be located in a position that is likely to cause an injury as a result of an accident', and in such a way that passengers cannot hear the phone ring or the caller's voice¹⁰¹. Restrictions such as this are intended to ensure the comfort and safety of the passenger.

3.7.2. Security camera systems

Security cameras are mandatory in taxis in the Hobart, Launceston, Devonport, Burnie and Ulverstone taxis areas. This requirement was introduced to improve the safety of drivers in these areas, and it was considered that they were the areas most likely to benefit from cameras. However, cameras are not mandatory in luxury hire cars.

DIER's discussion paper on rural taxis noted that in selecting these areas, consideration was given to factors such as population size and dispersal, geographical size of the area and its remoteness. These factors were considered important indicators in determining the extent to

¹⁰¹ Northern Territory Government Department of Planning and Infrastructure: Northern Territory Private Hire Car & Limousine Requirements and In-Service Maintenance Standards, page 6.

which an area might be exposed to the identified risk factors¹⁰² for crime¹⁰³. The paper noted that drivers in non-metropolitan areas were considered to have a lower exposure to these risks than those in the metropolitan areas¹⁰⁴.

It might be argued that if risks to taxi drivers in metropolitan areas are a reason for having security cameras installed in taxis, luxury hire car drivers in the same areas could be expected to face the same risks, and therefore that these vehicles should also be required to have cameras installed. However, a key reason for not requiring cameras in non-metropolitan areas was that most taxi work in these areas was pre-booked rather than rank/hail work, which provided the driver with an opportunity to assess the potential risks of undertaking a hiring, as well as enabling identification of the customer should the driver become a victim of crime¹⁰⁵.

The same applies to luxury hire cars. However, at least some 'pre-booked' work is able to be undertaken through phone requests for an immediate pickup. In such cases it could be difficult to identify the customer, especially if they are being picked up from a location other than their home address. Where non-metropolitan taxi drivers are more likely to know most of the area in which they operate, which was another reason for not requiring cameras in these areas, luxury hire car drivers are able to operate anywhere in the State. Hire car drivers in the larger cities are unlikely to know the entire metropolitan area as well as rural taxi drivers would know their towns, so again, identification of customers could become more difficult if they take bookings by mobile phone. (This could be another reason for restricting the use of mobile phones.)

On this basis, it is appropriate to consider whether cameras should be mandatory in luxury hire cars. Some members of the taxi industry have argued that some luxury hire cars operate as 'de facto' taxis and therefore should be subject to the same requirements as taxis in relation to cameras.

In NSW, where security requirements for taxis are arguably greater than in any other jurisdiction, security devices such as screens, duress alarms and cameras are not required to be installed in hire cars. It would be difficult to argue that the risks of not installing cameras in luxury hire cars in Tasmania would be any greater than in NSW.

If security and safety are major concerns of operators and drivers, there is nothing in the legislation to prevent them from installing cameras. Operators may also be in a position to

¹⁰² The risk factors identified included evening and night work, intoxicated young male passengers, working alone, inadequate driver knowledge of an area, customers with limited funds and customers who are strangers. (Mayhew, C: "Violent Assaults on Taxi Drivers: Incidence and Risk Factors", *Trends and Issues in Crime and Criminal Justice* No. 178, Australian Institute of Criminology, 2000, cited in Department of Infrastructure, Energy and Resources: Proposal to Introduce Security Cameras in Tasmanian Taxis, page 7.

¹⁰³ Department of Infrastructure, Energy and Resources: *Regulatory Impact Statement – Proposal to Introduce Security Cameras in Tasmanian Taxis*, April 2002, page 18.

¹⁰⁴ Department of Infrastructure, Energy and Resources: *Review of the Taxi and Luxury Hire Car Industries Act 1995 Paper 3 – Rural Taxis*, February 2006, pages 39–41.

¹⁰⁵ *ibid.*, page 40.

develop other mechanisms for ensuring the safety of their drivers, such as concealed duress alarms, if they considered this necessary.

Keeping comprehensive records of bookings, including ensuring the customer's name is obtained when receiving a booking might also assist in ensuring security. This issue is discussed in Section 3.6.3 in relation to ensuring that all work is pre-booked. However, good records in relation to customers and hirings could assist in obviating the need for security cameras to be installed in luxury hire cars. Transporting customers that are not known to the driver was one of the factors identified as being associated with a higher risk of crime, and one of the reasons for not requiring cameras to be installed in smaller rural areas, where drivers are more likely to know the customers.

Keeping records of customers' names and addresses (and possibly telephone numbers) would ensure that customers are known either to the driver or to the business, and those that were considered to be 'risky' could be identified and, if necessary, refused service. Keeping customer records at the registered business office would also facilitate identifying and locating customers that were involved in an incident such as fare evasion or violence.

3.7.3. Licence plates

In Tasmania, luxury hire cars¹⁰⁶ and taxis¹⁰⁷ are required to display licence plates in addition to the vehicle registration plate that is displayed on all registered vehicles. Some states have distinctive registration plates for luxury hire cars and taxis, rather than separate licence plates, to assist in distinguishing them from other vehicles. For example in the ACT, hire cars have registration plates beginning with the letter 'H' followed by one or two numbers and taxi registration plates have the prefix 'TX'. This approach might also assist in ensuring better distinction between luxury hire cars, taxis and other vehicles.

3.7.4. Questions

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| 34. | Should taximeters and electronic dispatch systems be allowed in luxury hire cars? Why or why not? |
| 35. | Is there any reason for prohibiting taximeters and electronic dispatch systems be in luxury hire cars other than to distinguish between hire cars and taxis? Would their absence assist customers in identifying that a vehicle was not a taxi? |
| 36. | Should booking by mobile phone made directly to the driver be prohibited? Why or why not? |

¹⁰⁶ Luxury Hire Car Regulations, Regulation 6.

¹⁰⁷ Taxi Industry Regulations, Regulation 17 and 17A.

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| 37. | Should restrictions be placed on the use of mobile phones by luxury hire car drivers to increase the comfort of the passengers? |
| 38. | Should operators/drivers specifically be required to agree with the customer on the total fare in advance, rather than 'the hiring charge'? |
| 39. | Should security cameras be mandatory in luxury hire cars in the metropolitan areas? Why or why not? |
| 40. | If cameras are not made mandatory, are there any precautions operators and drivers can take to improve driver safety in relation to hirings where the identity of the hirer cannot readily be ascertained? |
| 41. | Should operators be required to keep records of customers to assist in improving the security of their business and drivers? |
| 42. | Should distinctive registration plates be issued in place of licence plates for luxury hire cars and/or taxis? |

3.8. Driver code of conduct

3.8.1. Background

As noted in Section 2.2 the development of an industry code of conduct for drivers was proposed by the Taxi Industry Review Group¹⁰⁸. The Review Group recommended that this issue be addressed outside of the 1999 Review by an industry working party, which was to consider a range of issues that were outside the Review Group's Terms of Reference. As the Taxi Industry Reference Group has been established to progress this work, it is appropriate that this issue be raised in this consultation process on the review of the taxi industry legislation. This issue was discussed in relation to taxi drivers in DIER's discussion paper on operator accreditation¹⁰⁹.

The requirement for operators of both taxis and luxury hire cars to have a driver code of behaviour in place is included in the Taxi and Luxury Hire Car Transport Operator Accreditation Guidelines. The Accreditation Guidelines require all operators to have in place a code of behaviour that specifies minimum standards of behaviour for drivers. The code should address

¹⁰⁸ Taxi Industry Review Group: Regulatory Impact Statement, April 2000, page 12.

¹⁰⁹ Department of Infrastructure, Energy and Resources, Paper 5 – Operator Accreditation, Section 3.6.

issues such as driver attitudes, customer service, road safety, local area knowledge and accepting fares¹¹⁰.

The Accreditation discussion paper proposed that an industry code of behaviour/code of conduct be developed that operators could adopt, or modify to suit their own requirements, to assist operators comply with this provision. It noted that the former Taxi Industry Association of Tasmania (TIAT) produced a *Code of Practice for the Operating of Taxis* (the 1997 Code) in conjunction with the then Taxi Industry Advisory Board and the then Department of Transport in July 1997. The Code covered licensing, vehicles, drivers and passengers, and identified procedures for dealing with lost property and making complaints. Some elements of the Code were derived from legislation

The 1997 Code was produced as a supplement to the Taxi Regulations and, as such, did not impose any additional regulatory controls or restrictions. It was intended as a guide for taxi operators and passengers. It was intended to facilitate the provision of a 'high quality, affordable, demand responsive 24 hour a day supplementary public transport services and to recognise the role and input of a taxi driver¹¹¹'. Key components of the 1997 Code are reproduced at [Appendix 4](#).

3.8.2. Application to luxury hire car drivers

Much of the 1997 code was based on drivers' obligations under the Taxi Regulations, many of which are not reflected in the LHC Regulations and may or may not be relevant to luxury hire car drivers (e.g. use of a taxi meter, use of taxi ranks, requirement to travel by the most direct route, refusal to accept a hiring etc). However, it could be argued that some of these provisions could and should equally apply to luxury hire car drivers, either through regulation and/or a code of conduct. One such example is the requirement to travel to the destination by the most direct route or the route nominated by the passenger¹¹².

The following is a list of the requirements of taxi drivers that are found in the Taxi Regulations that might also be relevant to luxury hire car drivers and could be included in a code of conduct, although they are not all currently regulated. ([Appendix 6](#) provide a complete list of regulations that apply to taxi drivers.)

- correct charging of fares¹¹³;
- travelling by the most direct route, or the route nominated by the passenger¹¹⁴;

¹¹⁰ Department of Infrastructure, Energy and Resources: Passenger Transport Operator Accreditation Scheme: *Accreditation Guidelines for Operators of Taxis and Luxury Hire Cars*, Version 1.0, August 2005, page 18.

¹¹¹ The Taxi Industry Association of Tasmania Limited: *Code of Practice for the Operating of Taxis*, July 1997, cover page.

¹¹² Taxi Industry Regulations, Regulation 22(3).

¹¹³ Taxi Industry Regulations, Regulation 21A.

- permitting a person to ride in the taxi without consent of the hirer¹¹⁵;
- soliciting for business¹¹⁶; and
- management of lost property¹¹⁷.

There are other requirements of luxury hire car drivers that might also be included in such a code. These relate to:

- standing on a taxi rank¹¹⁸;
- fare to be agreed in advance¹¹⁹; and
- only undertaking hirings booked in advance¹²⁰.

Issues related to road safety could be encompassed by a requirement in the code for drivers to drive in a professional manner and to comply with the provisions of the relevant traffic legislation such as the *Traffic Act 1925*, the Road Rules and the *Road Safety (Drugs and Alcohol) Act 1970*¹²¹. It could also include issues such as ensuring that the driver is alert while on duty and free from the influence of substances that could affect their ability to drive a vehicle safely.

While issues such as driver attitude; customer expectations and customer service; and knowledge of routes around the area of operation are also not regulated, standard terms that might be included in a code of behaviour include requirements to:

- be friendly and polite when dealing with customers;
- be understanding and sensitive to customers needs, especially the needs of people with disabilities (including the requirement to transport service animals accompanying people with disabilities, such as Guide Dogs)¹²²;
- comply with reasonable requests of the customer (e.g. in relation to air conditioning, radios etc);

¹¹⁴ *ibid.*, Regulation 22(3).

¹¹⁵ *ibid.*, Regulation 24(6)(b).

¹¹⁶ *ibid.*, Regulation 24(8), (9) and (10). Luxury Hire Car Regulations, Regulation 11.

¹¹⁷ *ibid.*, Regulation 31.

¹¹⁸ Road Rules, Regulation 182(1).

¹¹⁹ Currently not regulated, but is a licence condition for luxury hire car licences.

¹²⁰ Luxury Hire Car Regulations, Regulation 12.

¹²¹ Section 6 of the *Road Safety (Drugs and Alcohol) Act 1970* provides that particular people, including a person driving a public passenger vehicle, who drive vehicle while alcohol is present in their body is guilty of an offence. Section 6A provides that a person who drives a motor vehicle while a prescribed illicit drug is present in his or her blood is guilty of an offence.

¹²² The Australian Taxi Industry Association has produced guidelines for transporting customers with disabilities to assist drivers in serving these customers. This includes serving customers with a range of disabilities, including people who use wheelchairs and people with service animals. The brochure also outlines the responsibilities of drivers and their passengers.

- be clean and neat in appearance (this might include wearing a uniform if the hire car company requires it or adhering to the operator's dress standards);
- ensure that the vehicle is clean;
- provide reasonable assistance to passengers e.g. in relation to luggage (operators might define what they deem to be 'reasonable');
- issue a receipt on request;
- accept the payment method preferred by the customer if the facilities to accept this method are available in the vehicle;
- complete a hiring once the vehicle has been booked; and
- know major routes in the area and major destinations such as airports, hotels, tourist attractions, hospitals, sporting facilities, cultural amenities and so on.

It would be expected that as providers of a 'premium' service, luxury hire car drivers and operators would consider these requirements to be basic elements of their service.

If an industry code was produced that complied with the accreditation guidelines, operators could then either adopt this code for their drivers, or could modify it to include requirements specific to their business. Under the accreditation scheme it is the responsibility of operators to ensure that drivers are provided with a copy of the code and that drivers' compliance with the code is monitored. At present it is not DIER's role to enforce such a code, other than if there is a specific breach of the taxi and luxury hire car industries legislation.

3.8.3. Questions

43. Which, if any, of the provisions that apply to taxi drivers through the Taxi Industry Regulations should also apply to luxury hire car drivers?
44. Which, if any, of these provisions should these be regulated?
45. Are there any other matters relating to the conduct of luxury hire car drivers that are currently not regulated that should be regulated?
46. Would a generic industry code of conduct for luxury hire car drivers be useful to assist operators in meeting the requirements of the accreditation guidelines in relation to a driver code of behaviour?
47. Which matters should be included in such a code?

48. How should the development of the code be progressed? Who should be responsible for coordinating it? How could it be funded?

3.9. Outcomes of this paper

As noted in the Introduction, this paper has been developed as part of DIER's review of the taxi industry legislation. As such it will be considered by the Taxi Industry Review Group in the course of its consideration of a range of issues related to the review. In addition to consultation with the Reference Group, DIER will consult with luxury hire car operators as part of the review process.

The paper has also been developed in response to concerns from both the taxi industry and the luxury hire car industry about the interaction between the two industries and the need to better clarify the distinction between the work of taxis and that of luxury hire cars. In particular, these concerns relate to the definition of 'pre-booked' work and the activities of luxury hire cars around taxi ranks and on-street touting, the use of taxi equipment in luxury hire cars and the operation of luxury hire cars out of taxi radio rooms. These concerns are raised in Section 3 of the paper.

It should be noted that this paper represents the first stage in addressing these issues, which have been raised on a number of occasions. The consultation process with the industries will review the effectiveness of the controls that are already in place to distinguish between the two industries. In presenting these issues in this paper, DIER seeks to ensure that it has a full understanding of the issues and concerns in order to make informed recommendations on how to best manage these issues, either through changes to the legislation or through policy decisions.

DIER encourages members of both industries to contribute to the process, not only by assisting in clarifying the issues, but also, and equally importantly, by making informed, practical suggestions on solutions to these issues. The questions in the paper are a guide to the information sought by DIER, and input on other relevant issues is also encouraged. Information on how to contribute to the review can be found in Section 4.

4. Further information

The *Taxi and Luxury Hire Car Industries Act 1995* Review Project is being conducted by the Passenger Transport Policy Branch of the Department of Infrastructure, Energy and Resources (DIER).

The Taxi Industry Reference Group is meeting over the course of 2006 to consider a range of issues that will inform the rewriting of the *Taxi and Luxury Hire Car Industries Act 1995*, the *Taxi Industry Regulations 1996* and the *Taxi Industry (Taxi Areas) Regulations 1996*. The issues being considered are:

- Fare setting mechanisms and driver pay & conditions
- Taxis in rural areas, including links to community transport
- Wheelchair accessible taxis
- Taxi and luxury hire car accreditation under the Passenger Transport Act/ Industry code of conduct
- Interaction between taxis and luxury hire cars
- Role of radio rooms
- Taxi areas
- Review of national competition policy changes to the *Taxi and Luxury Hire Car Industries Act 1995*
- Administrative and enforcement provisions of the *Taxi and Luxury Hire Car Industries Act 1995* and the *Taxi Industry Regulations 1996*.

The discussion papers are available on DIER's website at www.transport.tas.gov.au/miscellaneous/taxi_review.html. Members of the taxi industry wishing to contribute their views to the project should contact one of the industry representatives on the Reference Group, or can provide written submissions to DIER. Members of the public who wish to contribute can email their submissions to taxi.review@dier.tas.gov.au or mail hard copies to the address below.

Further information on the project can be obtained from:

Taxi Industry Legislation Review
Passenger Transport Policy Branch
Department of Infrastructure, Energy and Resources
GPO Box 936
HOBART TAS 7001
Phone: (03) 6233 2865
Email: taxi.review@dier.tas.gov.au

Review of the
Taxi and Luxury Hire Car Industries Act 1995

Luxury Hire Cars

Appendices

Appendix 1: Glossary of Terms

Legislation	
LHC regulations	<i>Luxury Hire Car Regulations 2000</i>
Passenger Transport Act, PT Act	<i>Passenger Transport Act 1997</i>
PT Regulations	<i>Passenger Transport Regulations 2000</i>
SLA	<i>Subordinate Legislation Act 1992</i>
The Act	<i>Taxi and Luxury Hire Car Industries Act 1995</i>
The Amendment Act	<i>Taxi and Luxury Hire Car Industries Amendment Act 2003</i>
The Regulations	<i>Taxi Industry Regulations 1996</i>
Road Rules	<i>Traffic (Road Rules) Regulations 1999</i>
Acronyms	
ACT	Australian Capital Territory
CVV	Classic, veteran and vintage vehicles
DIER	Department of Infrastructure, Energy and Resources
DPI	Department for Planning and Infrastructure (WA)
GST	Goods and Services Tax
MV	Metropolitan vehicle (SA)
NSW	New South Wales
NV	Non-metropolitan vehicle (SA)
PT	Private taxi (WA)
SA	South Australia
SCV	Special charter vehicle (WA)
SPV	Small passenger vehicle (SA)
SV	Special purpose vehicle (SA)
TV	Traditional vehicle (SA)
VTD	Victorian Taxi Directorate
WA	Western Australia

Appendix 2: Taxi and Luxury Hire Car Industries Act 1995

(at 28 February 2006)

PART 4A – Luxury Hire Cars

23A. Interpretation of Part

In this Part, unless the contrary intention appears –

"licence" means a luxury hire car licence;

"licensee" means the holder of a licence;

"limited passenger service" means a limited passenger service within the meaning of the *Passenger Transport Act 1997*;

"luxury hire car" means a small passenger vehicle in respect of which a licence issued under this Part is in force;

"luxury vehicle" means a small passenger vehicle that is determined by the Commission to be a luxury vehicle in accordance with Schedule 5;

"motor vehicle" means a motor vehicle within the meaning of the *Vehicle and Traffic Act 1999*;

"public passenger vehicle" means a motor vehicle that is registered as a public passenger vehicle pursuant to section 7 of the *Passenger Transport Act 1997*;

"registered" means registered under the *Vehicle and Traffic Act 1999*;

"small passenger vehicle" means a motor vehicle with a seating capacity of less than 13 adults, including the driver, that is designed and constructed primarily for the carriage of passengers;

"taxi" means a vehicle that is licensed and operated as a taxi under this Act.

23B. Luxury hire car licences

(1) The Commission may issue persons with licences, called luxury hire car licences, in respect of small passenger vehicles that are not taxis.

(2) A luxury hire car licence authorises the small passenger vehicle specified in the licence to be hired out, together with a driver, for the purpose of carrying passengers for reward even though –

(a) the vehicle is not a taxi; and

(b) the passenger service being provided is not a limited passenger service.

(3) A luxury hire car licence does not prevent the vehicle specified in the licence from being used for private purposes and any other purposes authorised by virtue of its registration under the *Vehicle and Traffic Act 1999*.

23C. Applications for licences

- (1) An application for a luxury hire car licence may be made by the registered operator of the vehicle or by a person authorised by the registered operator.
- (2) The application is to be –
 - (a) lodged with the Commission; and
 - (b) made on a form that the Commission has provided or approved for the purpose; and
 - (c) accompanied by a licence fee of \$5 000; and
 - (d) supported by such information or evidence as the Commission requires.

23D. Issue and commencement of licences, &c.

- (1) The Commission is to issue an applicant with a luxury hire car licence in respect of a vehicle if the Commission –
 - (a) is satisfied that the vehicle is a registered small passenger vehicle and is not a taxi; and
 - (b) determines, in accordance with Schedule 5, that the vehicle is a luxury vehicle.
- (2) The licence may be issued on such conditions as the Commission determines having regard to the objects of this Act in respect of luxury hire car services, including conditions relating to –
 - (a) the areas in which the vehicle may operate as a luxury hire car; and
 - (b) the condition or standard of the vehicle.
- (3) A luxury hire car licence takes effect on the day on which it is issued and, unless forfeited or surrendered in accordance with this Part, it –
 - (a) remains in force for a period of 12 months from that day; and
 - (b) is from time to time renewable for an equivalent period on payment of a prescribed fee.
- (4) A licence may be surrendered to the Commission at any time.
- (5) The Commission may, on payment of a prescribed fee, issue a licensee with a replacement for any licence that has been lost or destroyed or been damaged to an extent that renders it unsuitable for the purposes of this Part.

23E. Variation of licence conditions

- (1) The Commission may vary the conditions of a luxury hire car licence in accordance with this section.
- (2) The Commission must –

- (a) give the licensee notice in writing of its intention to vary the licence conditions; and
- (b) give the licensee a reasonable opportunity to make representations to the Commission regarding the proposed variations; and
- (c) take any such representations into account in exercising its power under this section.

23F. Transfer of licences

- (1) A licensee may at any time apply as prescribed to the Commission to do either or both of the following:
 - (a) have the licence transferred to another person;
 - (b) have the licence apply, temporarily or indefinitely, to another vehicle.
- (2) The Commission is to approve the application if the Commission –
 - (a) is satisfied that the vehicle to which the licence is to relate is a registered small passenger vehicle; and
 - (b) determines, in accordance with Schedule 5, that that vehicle is a luxury vehicle; and
 - (c) is satisfied, in a case to which subsection (1)(b) applies where the applicant is not the registered operator of the other vehicle, that the application is authorised by the registered operator of that vehicle.

23G. Cancellation and suspension of licences

- (1) The Commission, in prescribed circumstances, may cancel a luxury hire car licence.
- (2) The Commission, in prescribed circumstances, may suspend a luxury hire car licence for a period not exceeding 3 months.

23H. Delivering up licences

A person who holds a luxury hire car licence must, if given notice to do so by the Commission, deliver up that licence to the Commission at such time and place as the Commission by the notice specifies.

Penalty:
Fine not exceeding 10 penalty units.

23I. Small passenger vehicle offences

- (1) This section applies to a small passenger vehicle that is not a taxi.
- (2) A person who does not hold a luxury hire car licence must not hire out a small passenger vehicle to which this section applies, with a driver, for the purpose of carrying passengers for reward other than to provide a limited passenger service.

Penalty:
Fine not exceeding 20 penalty units.

(3) A person must not, for reward, drive or use a small passenger vehicle to which this section applies on a public street or cause or allow such a vehicle to be driven or used on a public street, other than to provide a limited passenger service, if a luxury hire car licence is not in force in respect of that vehicle.

Penalty:
Fine not exceeding 20 penalty units.

23J. General offences

(1) A person who holds a luxury hire car licence must not contravene or fail to comply with the conditions of the licence.

Penalty:
Fine not exceeding 20 penalty units.

(2) A person who does not hold a luxury hire car licence must not hold himself or herself out to be the holder of a luxury hire car licence.

Penalty:
Fine not exceeding 20 penalty units.

(3) A person must not make a false or misleading statement to the Commission, or produce a false or misleading document to the Commission, in connection with an application or any other matter under this Part.

Penalty:
Fine not exceeding 20 penalty units.

23K. Amendment of Schedule 5

(1) The Governor may, by order, amend column 1 of the table in Schedule 5 by doing any one or more of the following:

- (a) omitting the name of any vehicle;
- (b) inserting in any place the name of any vehicle;
- (c) omitting the name of any vehicle and substituting the name of any other vehicle.

(2) The Governor may, by the same or a different order, amend column 2 of the same table by doing either or both of the following:

- (a) omitting a maximum age specified in the column and substituting a different maximum age;
- (b) inserting a maximum age in respect of any group of vehicles in the table for which a maximum age has not previously been specified.

(3) The provisions of sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order under this section as if the order were regulations within the meaning of that Act.

SCHEDULE 5 – Luxury Vehicles

1. The Commission is to determine that a public passenger vehicle is a luxury vehicle for the purposes of Part 4A of this Act if –

- (a) the Commission is satisfied that the vehicle is being maintained at a standard that is commensurate with luxury vehicle status; and
- (b) it is a vehicle specified in column 1 of the following table and, if applicable, no older than the corresponding maximum age specified in column 2 of the table.

Column 1 Vehicle	Column 2 Maximum age
<i>Group 1</i>	
Ford Fairlane Ghia	7 years
Ford LTD	
Holden Caprice	
Holden Statesman	
Mazda 929	
Volvo 960, S90 and V90	
<i>Group 1A</i>	
Stretched or modified versions of Group 1 vehicles	12 years
<i>Group 2</i>	
BMW Series 7	15 years
Cadillac	
Daimler	
Jaguar	
Mercedes Series 230 and above	
Toyota Lexus LS 400	
<i>Group 2A</i>	
Stretched or modified versions of Group 2 vehicles	–
<i>Group 3</i>	
Bentley	–
Rolls Royce	

2. The Commission may determine that a vehicle specified in column 1 of the table in item 1 is a luxury vehicle for the purposes of Part 4A of this Act notwithstanding that it exceeds the corresponding maximum age specified in column 2 of the table if the Commission –
 - (a) is satisfied that the vehicle is being maintained at a standard that is commensurate with luxury vehicle status; and
 - (b) in the case of a vehicle that belongs to Group 1 or 2 of the table, imposes conditions on the luxury hire car licence limiting the area of operation of the vehicle as a luxury hire car to a non-metropolitan area.
3. The Commission may determine that a vehicle not specified in column 1 of the table in item 1 is a luxury vehicle for the purposes of Part 4A of this Act if the Commission is satisfied that –
 - (a) the vehicle is of at least a comparable standard to a vehicle specified in column 1 of the table; and
 - (b) the vehicle is being maintained at a standard that is commensurate with luxury vehicle status.
4. If the Commission makes a determination under item 3, it must classify the subject vehicle as belonging to a Group of the table in item 1.
5. If the subject vehicle is classified as belonging in Group 1, 1A or 2 of the table, the vehicle is subject to the same limitations and restrictions as to its maximum age and the Commission's discretion in relation to that maximum age as if the vehicle were actually specified in that Group of the table.
6. For the purpose of this Schedule, the age of a vehicle is to be determined from the date of its manufacture as specified on its compliance plate.

Appendix 3: *Luxury Hire Car Regulations 2000*

(at 28 February 2006)

PART 1 – Preliminary

1. Short title

These regulations may be cited as the *Luxury Hire Car Industry Regulations 2000*.

2. Commencement

These regulations take effect immediately after the *Passenger Transport Act 1997* commences.

3. Interpretation

In these regulations –

"Act" means *Taxi and Luxury Hire Car Industries Act 1995*;

"licence" has the same meaning as in Part 4A of the Act;

"licensee" has the same meaning as in Part 4A of the Act;

"public place" means any place to which, at the relevant time, the public have access, whether on payment of money for admission or otherwise;

"prescribed fee", for any matter, means the fee prescribed for that matter in Schedule 1.

PART 2 – Licence controls

Division 1 – Information and identification

4. Form of licence

A licence is to be in such form as the Commission determines but must contain at least the following information:

- (a) the name and address of the licensee;
- (b) the licence number;
- (c) particulars of the vehicle to which the licence applies;
- (d) the date on which the licence was issued and the date on which, unless sooner forfeited or surrendered, it expires if not renewed;
- (e) particulars of any conditions of the licence.

5. Register of licences

(1) The Commission must keep a register of licences in which it is to record, in respect of each licence issued –

- (a) the name and address of the licensee; and
 - (b) the licence number; and
 - (c) particulars of the vehicle to which the licence applies; and
 - (d) the conditions of the licence; and
 - (e) particulars of any renewal, transfer, suspension or cancellation of the licence; and
 - (f) such other matters as the Commission considers appropriate.
- (2) The register is not a public register.

6. Distinguishing plates and labels

- (1) The Commission may issue a licensee with a distinctive plate or label, or both, for the vehicle to which the licensee's licence applies.
- (2) A plate or label so issued may be in such form as the Commission determines.
- (3) A plate or label so issued may be in addition to, or in substitution for, any other plate, label or form of identification issued by the Commission in respect of the vehicle.
- (4) A plate so issued remains the property of the Commission.
- (5) If the Commission exercises its power under subregulation (1), it must also issue the licensee with written instructions for the affixing of the plate or label on the vehicle for which the licence has been issued.
- (6) A person who is issued with a plate or label for a vehicle under this regulation must –
- (a) affix the plate or label to the vehicle in accordance with the Commission's written instructions; and
 - (b) keep the plate or label affixed to the vehicle in accordance with the Commission's written instructions for so long as the person holds a licence in respect of the vehicle; and
 - (c) cause the plate or label to be completely covered up during any period during which the person's licence in respect of the vehicle is suspended; and
 - (d) remove the plate or label from the vehicle within 14 days after the day on which the person's licence in respect of the vehicle expires, is surrendered or is cancelled; and
 - (e) return the plate to the Commission within 30 days after the day on which the person's licence expires, is surrendered or is cancelled.

Penalty:

Fine not exceeding 10 penalty units.

- (7) In any proceedings under subregulation (6) it is a defence for the person charged to show that –
- (a) at the time of the offence, he or she was not the registered operator of the vehicle; and

(b) the commission of the offence was due to an action or omission taken or made by the registered operator; and

(c) before the commission of the offence, the person charged had taken reasonable steps in relation to the registered operator to prevent the offence being committed.

(8) The Commission may issue a licensee with a replacement plate or label on payment of a prescribed fee.

6A. Licence number-plates

(1) A person issued a licence number-plate for a luxury hire car must ensure that the number-plate is affixed so that the number on the plate is clearly legible from a distance of 20 metres at any point within an arc of 45 degrees from the surface of the plate above or to either side of the luxury hire car.

Penalty:
Fine not exceeding 10 penalty units.

(2) A person issued a licence number-plate for a luxury hire car must not affix that number-plate to a vehicle that is not the luxury hire car for which the licence number-plate was issued.

Penalty:
Fine not exceeding 5 penalty units.

7. Applications for transfer

An application under section 23F of the Act is to be –

(a) lodged with the Commission; and

(b) made on a form that the Commission has provided or approved for the purpose; and

(c) accompanied by the prescribed fee; and

(d) supported by such information or evidence as the Commission requires.

8. Change of name or address

A person who holds a licence must, within 30 days after changing his or her name or postal address, notify the Commission of the person's new name or postal address.

Penalty:
Fine not exceeding 10 penalty units.

Division 2 – Suspension and cancellation

9. Suspension of licences

(1) The circumstances in which the Commission may suspend a licence are as follows:

(a) where the licensee has failed to comply with a condition of the licence;

(b) where the vehicle to which the licence applies has ceased temporarily to be registered;

- (c) where the vehicle to which the licence applies has ceased to be a luxury vehicle.
- (2) The Commission, if it considers that the circumstances permit, may give the licensee notice of its intention to suspend the licence and consider any representations of the licensee.
- (3) On suspending a licence, the Commission must immediately give the licensee notice of the suspension, the reasons for the suspension and the actions that the licensee must take to have the suspension lifted.
- (4) A licence is not valid during any period of suspension but a suspended licence may be renewed.
- (5) Subregulation (4) is not to be taken as relieving the licence holder from any obligation under Part 4A of the Act or these regulations in respect of the suspended licence or as preventing the Commission from exercising any power that it could exercise if the licence were not suspended.

10. Cancellation of licences

- (1) The circumstances in which the Commission may cancel a licence are as follows:
- (a) where it is satisfied that the licensee has failed to comply with a condition of the licence, being a condition that the Commission considers to be a fundamental licence condition;
- (b) where it is satisfied that the vehicle to which the licence applies has ceased to be registered and is likely to remain unregistered indefinitely or for a prolonged period;
- (c) where it is satisfied that the vehicle to which the licence applies has ceased to be a luxury vehicle but is still being offered for hire as a luxury hire car.
- (2) The Commission, if it considers that the circumstances permit, may give the licensee notice of its intention to cancel the licence and consider any representations of the licensee.
- (3) On cancelling a licence, the Commission must immediately give the licensee notice of the cancellation and the reasons for the cancellation and the actions, if any, that the Commission requires the licensee to take as a result of the cancellation.

Division 3 – Licensing offences

11. Custom not to be solicited in a public place

- (1) A licensee or driver of a luxury hire car must not solicit, in a public place, a person to hire a luxury hire car.

Penalty:

In the case of –

- (a) a first offence – a fine not exceeding 10 penalty units; and
 (b) a second or subsequent offence – a fine not exceeding 20 penalty units.

- (2) A licensee or driver of a luxury hire car must not cause or permit a person to solicit, in a public place, another person to hire a luxury hire car.

Penalty:|

In the case of –

- (a) a first offence – a fine not exceeding 10 penalty units; and
- (b) a second or subsequent offence – a fine not exceeding 20 penalty units.

12. Luxury hire cars not to be hired out unless booked

A licensee must not hire out a luxury hire car, or cause or permit another person to hire out a luxury hire car, unless the hiring was booked in advance.

Penalty:
Fine not exceeding 10 penalty units.

PART 3 – Miscellaneous

13. Meaning of non-metropolitan area for Schedule 5

An area is taken to be a non-metropolitan area for the purposes of clause 2 of Schedule 5 to the Act if no part of the area is within –

- (a) 8 kilometres of the Burnie Post Office; or
- (b) 9 kilometres of the Devonport Post Office; or
- (c) 12 kilometres of the General Post Office at Hobart; or
- (d) 8 kilometres of the General Post Office at Launceston; or
- (e) the precincts of Hobart Airport or Launceston Airport.

14. Prescribed fees

The fees specified in Schedule 1 are prescribed as the fees that are payable for the matters to which they respectively relate.

SCHEDULE 1 – Fees

Column 1 Item No.	Column 2 Provision	Column 3 Matter for which fee payable	Column 4 Fee (in fee units)
1.	Regulation 6(8)	Issue of replacement plate or label	10
2.	Regulation 7(c)	Application to transfer licence	10
3.	Section 23D(3)(b) of the Act	Renewal of licence	30
4.	Section 23D(5) of the Act	Replacement of licence	10

Appendix 4: Regulatory arrangements for metropolitan luxury hire cars in Australian states and territories

State/issue	Tasmania	NSW	Victoria	Queensland	SA*	WA	NT****	ACT
Licences								
Availability	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited
Transferable	Yes	Yes (ordinary licences)	Yes	Yes	N/A	No	No	
Leasable	No	Yes	No	Yes	N/A	No	No	N/A
Cost (metro)	\$5,000	\$80,000	\$60,500	\$91,500	Nil	Nil	Nil	Nil (leased from Govt)
Short term licences	No	Yes (\$8235 pa)	na	na	n	na	No	
Annual fee	\$35.10	Nil	\$126.00	\$120.85	\$1,155.00 (accreditation fee)	\$85.00	\$2,000.00	\$4,600.00 (lease fee)
Restricted licences	No	Yes (weddings, formals, funerals)	Special Purpose (weddings/tours) Restricted Hire (vehicles 25 yrs +)	na	Special purpose vehicles	No	No	Yes (weddings & formals)
Conditions								
Must be pre-booked	Yes	Yes	Yes (thorough operator's business address)	Yes (through booking office)	Yes (through booking office)	Yes	Yes	Yes
Sit on taxi ranks	Prohibited	Prohibited	Prohibited	Limousine ranks only	Prohibited	Prohibited	Prohibited	Prohibited
Tout in public streets	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Fares	Agreed in advance	Agreed in advance	Agreed in advance	Agreed in advance	Minimum charge (TV) Fare or basis for calculating fare agreed in advance	Minimum fare regulated	Agreed in advance	Not regulated
Minimum booking time	No	No	No	No	na	na	No	Not regulated
Area of operation (metro)	State-wide	Anywhere, but must originate or terminate in the licensed area	State-wide	State-wide	na	Within metro area and to specified destinations outside the metro area	Can operate throughout the Territory	Can operate throughout the Territory

State/issue	Tasmania	NSW	Victoria	Queensland	SA*	WA	NT****	ACT
Vehicles								
Age on entry	Nil	Nil	Nil	Nil	3.5 years (MV)	Nil	3 years	Nil
Max age (non-stretched)								N/A
Base	7	N/A	5 to 7	6 years	6.5 years (MV)	8 years**	7 years	N/A
Middle	12	N/A	10 to 15	1years		8 years	N/A	N/A
High	Unlimited	N/A	25	Unlimited		8 years	15 years	N/A
Country	Unlimited	N/A	2-3 years additional	Same as metro	Not regulated by state govt	No restrictions	N/A	N/A
Vehicle types	From approved list or otherwise approved	Passenger car only, no wagons	Modern luxury sedan or stretched vehicle	Luxury motor vehicle	From approved list or otherwise approved	Passenger vehicles, not wagons or utilities, from specified groups	From approved list; no station wagons, hatchbacks or small people movers	Not specified - must comply with wheelbase
Vehicle classes		Not specified - must comply with the above				See note *** below		Not specified - must comply with wheelbase
Base	Statesman etc	N/A	Statesman etc	Statesman etc	MVs (Statesman, Fairlane)	***	Fairlane, Statesman	N/A
Middle	BMW, Cadillac, Daimler, Jaguar etc	N/A	BMW, Mercedes	Cadillac, Lincoln etc		***	N/A	N/A
High	Bentley, Rolls	N/A	Rolls, Bentley	Rolls, Bentley		***	Mercedes, Jaguar, Bentley, Rolls Royce	N/A
Other								
Vehicle standards	Commensurate with 'luxury vehicle' status	Well presented, excellent condition	Must be well maintained and roadworthy	Maintained in a safe condition	Higher quality of vehicle		Detailed standards for vehicle interior and exterior	Clean and roadworthy as per service standards
Wheel base	Not considered	2800 mm	2800 mm	Not considered	2800 mm	2800 mm	2800 mm	2800 mm
Luxury tax	Not considered	Not considered	Used to determine non-specified vehicles	Not considered	Not considered	Yes (for non specified vehicles)	Not considered	Not considered
Other	Nil	Nil	Nil	Nil	Max km on odometer; max km travelled per year	Nil	Nil	Nil
Equipment								
Meters	Not prohibited	Not prohibited	Prohibited	Not prohibited	Not used	na	Prohibited	Not prohibited
Dispatchers/ radios	Not required	Legislation is silent	Not used	Not used	na	na	Not permitted	Not required
Advertising	Not prohibited	Not prohibited	Permitted, but restricted	na	na	na	Only if approved, for the hire car company	Not permitted, except to advertise the hire car company

State/issue	Tasmania	NSW	Victoria	Queensland	SA*	WA	NT****	ACT
Livery/signage	Legislation is silent/ not required	Legislation is silent	Not required	na	Not permitted	na	Not permitted	Not required
Security equipment (e.g. cameras)	Not required	Not required	Not required	na	na	na	Not required	Not required
Network connection	Not required	Not required	Not required	na	na	na	Not permitted	Not required
Mobile phones	Not prohibited	Not prohibited	Not prohibited, but bookings must go through operator's address, cannot display mobile number on vehicle	Not prohibited	na	na	Allowed but use restricted	Not prohibited
Other								
Operator accreditation	Required	Required	Good character, financially stable and qualified	Required	Required	na	Required	Required (audited by Department)
Records of bookings	Not required	Not required	Details of all customers and bookings to be recorded and kept in vehicle	Required (checked through accreditation)	Required	Required (inspected by Department)	Required (audited by Department)	Required (audited by Department)

na = information not available

* In SA 'Limousine' services are provided by vehicles classed as Traditional Vehicles (TV). There are also Metropolitan Vehicles (MV) that provide similar services to taxis, but with a higher standard vehicle. Unless otherwise specified, the information in this table refers to limousines (TV).

** In WA unmodified vehicles, other than classic vehicles (aged 25+ years), can operate as hire cars to a maximum of 8 years.

*** WA categories are: luxury vehicles (Group A: Bentley, Rolls Royce, Cadillac etc) and Group B: Statesman, Fairlane etc); luxury people movers; modified (stretched) luxury vehicles: and classic vehicles (aged 25+ years).

**** NT has private hire cars, which are similar to limousines but less restricted in their operations (e.g. they can pick up from specified locations and events).

Appendix 5: Extract from Code of Practice for the Operating of Taxis (1997)

The Vehicle

1. All vehicles operating as perpetual or temporary taxis, or cabs, will display a current inspection label on the rear windscreen.
2. Both the interior and exterior of the vehicle will be kept clean, and the interior shall be free of unpleasant odours. When at times through unavoidable circumstances or bad weather a vehicle becomes dirty, the operator will at the first opportunity restore that vehicle to a clean condition.
3. Both the interior and exterior of the vehicle should be free of damage, dents, scratches and excessive wear and tear.
4. Vehicles shall be kept in good mechanical condition at all times and if a mechanical or other failure renders that vehicle unsafe, then the vehicle will be removed from service until the problem is rectified.
5. Seat belts shall be accessible to all passengers and should be in a serviceable and clean condition.
6. A taxi shall be fitted with a sealed taxi meter.
7. There will be displayed in each vehicle a schedule of the current fare rates.
8. Vehicles belonging to radio networks will display network identification and a taxi radio number for specific identification purposes.

The Driver

The driver of a taxi shall:

- Be polite and courteous.
- Provide reasonable assistance to their passengers.
- Be of neat appearance.
- Be neatly and cleanly attired.
- Not smoke in a taxi and will advise any passenger who is smoking that it is an offence under the Regulations.
- While on a public vehicle stand or while disengaged, accept all hirings offered to him or her, unless he or she suspects that the passenger will not comply with Regulations of this Code of Practice.
- Carry out punctually a hiring that he or she has agreed to take.
- Ensure that the hirer of the taxi consents to all other persons being carried in that taxi.

- Wait with his or her taxi for a passenger who, having been conveyed therein, has instructed the driver to do so.
- As soon as the taxi is hired, and not before, set in motion the taxi meter.
- Immediately on termination of the hiring, stop the taxi meter.
- Ensure that the taxi is operating under the correct tariff for that time and that day.
- Not carry more passengers than the particular vehicle is licensed to carry.
- Travel by the route directed by the passenger and, in the absence of such a direction, must travel by the most direct or practicable route from the point at which the taxi was hired to the intended destination of the passenger.
- Accept Transport Access Scheme vouchers when being used legitimately.
- Carry guide dogs or the blind when requested to do so.
- Report property found in a taxi to the radio network and hand that property to the Police Lost Property section unless the owner is identified.
- Not tout for business or otherwise solicit a person to use his or her taxi.
- Drive in a professional manner and in accordance with the traffic Regulations.
- Issue a receipt when requested to do so.
- While standing on a public vehicle stand, ensure that their vehicle is standing in the foremost vacant space.
- Be aware of any driver assistance and trauma counselling programs available, either through the Association or other sources.

The Passenger

A passenger shall

- NOT hire a taxi unless he or she has the ability to pay the driver the full cost of the hiring. The passenger is entitled to an estimate from the driver of the cost of the journey.
- NOT, at the end of a journey, make off without paying the fare for that journey.
- NOT hire or attempt to hire a taxi if that passenger is under the influence of alcohol or drugs, or who is noisy, violent, or misbehaving to such an extent as to cause annoyance to the driver or any other passengers.
- NOT abuse or threaten a driver with violence.
- NOT smoke or consume alcohol or food in a taxi.
- Be aware that, if he or she soils a taxi, the driver may request the passenger to pay the driver, or make arrangements to pay the driver, a cleaning fee which shall be limited to twice the taxi hourly detention rate. This fee is incurred if, as a result of an

action of a passenger, the taxi must be removed from use until cleaned, dried and/or deodorised before it can again be available for hire.

- Comply with requirements relating to the using of seatbelts.
- Be aware that the taxi industry accepts the practice of the driver at his discretion immediately terminating the hire if he or she believes that the passenger is in breach of the preceding.
- Be aware that the passenger upon termination of hire must pay the full cost of hire to the point of termination.
- Be aware that in some instances above drivers may, and do, obtain the assistance of the Police.

Lost Property

An accredited Radio Operation may, if it wishes to, hold lost property for a period of seven days before handing it to the Police.

A radio network will make every endeavour to find or give information about lost property, however the current requirement for unidentifiable lost property is to hand that property to Police Lost Property.

If the owner of an item is identifiable then an attempt will be made to contact the owner within a reasonable period of time. In most cases the radio network does not hold any lost property.

Again it is important to be able to identify the taxi, or at least the taxi radio network in which you may have lost the item.

Complaints

Any member of the public, a driver or an operator has the right to lodge complaints and is invited to do so. Complaints let a responsible person know that a problem may exist and therefore they have the opportunity to remedy that situation.

It is important to remember that in most cases it is necessary to be able to identify the person involved, so to assist the person hearing your complain you should endeavour to:

- Identify the radio network in which the taxi is operating.
- Identify the taxi by the vehicle registration plate.
- State as near to possible the time and day that the problem occurred.
- State the address that the journey commenced from.

Remember that radio networks keep records of all bookings made through their system but do not have records of taxis taken from taxi ranks or booked direct with the driver personally or by mobile phone.

Complainants should be aware that in most cases the taxi is not owned by the radio network, however in the case of a motor vehicle accident the radio network will be able to advise the name of the owner.

To assist complainants the following order of contact is suggested, but it is appreciated in extremely serious complaint situations it may be necessary to advise the Police or the Department of Transport in the first instances as soon as possible.

- The taxi radio network – which will investigate the complaint, identify whether the complaint is sustained and advise the Taxi Industry Association of Tasmania Limited
- The operator of the taxi – this may be an individual or a taxi management operation
- The Taxi Industry Association of Tasmania Limited
- The Department of Transport
- The Taxi Industry Advisory Board
- Tasmania Police

In the case of a serious complaint, ring 000 state-wide.

Appendix 6: Extract from the *Taxi Industry Regulations 1996* (Drivers' Responsibilities)

21A. Charging of fares

(1) In this regulation –

"fare" includes extra charges;

"passenger" means a person hiring a taxi;

"standard fare" includes extra charges allowable under regulation 21.

(2) A driver must not charge a passenger more than the standard fare for a hiring unless –

(a) a higher fare is authorised by a fare agreement; or

(b) a higher fare is authorised by a special agreement entered into, and approved by the Commission, before the hiring.

Penalty:

Fine not exceeding 10 penalty units.

(3) A driver operating under a fare agreement must not charge a passenger more for a hiring than the fare authorised by that agreement.

Penalty:

Fine not exceeding 10 penalty units.

(4) A driver must not charge a passenger for any period during which the taxi is delayed because of any of the following causes:

(a) a lack of fuel for the taxi;

(b) a mechanical breakdown of the taxi;

(c) a traffic accident involving the taxi;

(d) the lawful closure of a road or bridge, being a closure that was publicly notified in a newspaper before the hiring;

(e) the directions or other actions of a police officer or authorised officer who is investigating the commission or possible commission of an offence involving the driver or taxi;

(f) an event that the driver, with reasonable foresight, could have prevented or avoided.

Penalty:

Fine not exceeding 10 penalty units.

(5) A driver may, before accepting any hiring, request the payment of a deposit not exceeding the expected cost of the hiring.

22. Duties of responsible operators and drivers

(1) . . .

(2) . . .

(3) A driver who accepts a hiring must travel by –

(a) the route nominated by the passenger; or

(b) if no route is nominated, the most direct route that may reasonably be used from the point at which the taxi was hired to the destination stated by the passenger.

Penalty:

Fine not exceeding 10 penalty units.

23. Taximeters and taxi signs

(1) . . .

(2) . . .

(3) If a taxi is required to operate on more than one tariff, the driver must not operate the taxi while the taximeter is operating in the wrong tariff for the time of operation.

Penalty:

Fine not exceeding 10 penalty units.

(4) The driver of a taxi must not operate the taxi while the taximeter is operating on the third or fourth tariff if the taxi is not operating under a WAT licence.

Penalty:

Fine not exceeding 10 penalty units.

24. Use of taxis

(1) A driver must not, without lawful excuse, operate a taxi from a taxi zone that is not within the taxi area to which the taxi licence number-plate affixed to the taxi relates.

Penalty:

Fine not exceeding 10 penalty units.

(1A) A driver must not, without lawful excuse, operate a taxi so that a hiring is commenced and completed wholly outside the taxi area to which the taxi licence number-plate affixed to the taxi relates.

Penalty:

Fine not exceeding 20 penalty units.

(2) Subject to subregulations (3) and (4), if a taxi is hired for the carriage of passengers, the driver –

(a) as soon as the taxi is hired and not before, must start the taximeter;
and

(b) immediately at the end of the hiring, must stop the taximeter or operate it to hold the reading constant.

Penalty:

Fine not exceeding 10 penalty units.

- (3) Subregulation (2) does not apply to a taxi being used for the carriage of passengers –
- (a) in order to attend a wedding or funeral; or
 - (b) under a contract or agreement that is –
 - (i) in a form approved by the Commission; and
 - (ii) entered into between the licensee or his or her agent and any other person; or
 - (c) in accordance with a term of an accreditation agreement.
- (4) Subregulation (2) does not apply to a taxi that is being used to provide a limited passenger service in accordance with section 15A of the *Passenger Transport Act 1997*.
- (5) A driver must not stand a taxi in a public street when the taxi is not being used for the carriage of passengers under the authority of a licence unless –
- (a) the place where the taxi is standing is a taxi zone within the taxi area for which the taxi is licensed; or
 - (b) in any other case, a sign with the words "not for hire" is prominently displayed on the taxi and neither the driver nor any person known to the driver solicits or accepts any immediate hiring of the taxi.

Penalty:

Fine not exceeding 10 penalty units.

- (6) A driver must not –
- (a) refuse to accept a hiring while the driver's taxi is in a taxi zone; or
 - (b) permit a person to ride in or on the driver's taxi without the consent of the hirer of the taxi; or
 - (c) when the driver's taxi is in a taxi zone, fail to stand the taxi in the foremost vacant space within that zone; or
 - (d) leave his or her taxi unattended in a taxi zone without reasonable grounds for doing so.

Penalty:

Fine not exceeding 10 penalty units.

- (7) It is a defence in proceedings under subregulation (6)(a) for the defendant to show that he or she had reasonable grounds for believing that the intending hirer –
- (a) would not be able to pay for the hiring; or
 - (b) represented a real or potential threat to the defendant's physical safety or to the safe operation of the defendant's taxi.

- (8) The responsible operator or driver of a taxi must not solicit, in a public place, a person to hire that taxi.

Penalty:

In the case of –

- (a) a first offence – a fine not exceeding 10 penalty units; and
- (b) a second or subsequent offence – a fine not exceeding 20 penalty units.

(9) The responsible operator or driver of a taxi must not cause or permit a person to solicit, in a public place, another person to hire that taxi.

Penalty:

In the case of –

- (a) a first offence – a fine not exceeding 10 penalty units; and
- (b) a second or subsequent offence – a fine not exceeding 20 penalty units.

(10) Nothing in subregulation (8) or (9) is to be taken as preventing a taxi from being hired when it is standing for hire on a taxi zone, or from being hailed.

31. Lost property

If any property left in a taxi remains unclaimed for 7 days, the driver or responsible operator of the taxi must deliver the property as soon as possible to the nearest police station.

Penalty:

Fine not exceeding 2 penalty units.

Appendix 7: Resources

Australian Capital Territory Road Transport (Public Passenger Services) (Minimum Service Standards for Hire Car Services (Other Than Restricted Hire Car Services)) Approval 2006 (No 1), Disallowable Instrument DI2006-42 made under the *Road Transport (Public Passenger Services) Regulation 2002*, Section 18B, sourced from www.legislation.act.gov.au (accessed 12 April 2006).

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ACT Road Transport Authority: Hire Car Regulation Information, February 2005 (sourced from ACT RTA website: www.transport.act.gov.au/publictransportpolicy/hirecarservices/hirecarinfo accessed 2 March 2006).

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Department of Infrastructure, Energy and Resources: *Passenger Transport Operator Accreditation Scheme: Accreditation Guidelines for Operators of Taxis and Luxury Hire Cars*, Version 1.0, 31 August 2005.

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NSW Ministry of Transport: *Private Hire Vehicle Driver Authorisation Package*, December 2004, (sourced from Ministry of Transport website: www.transport.nsw.gov.au/licensing/hirecars/drivers.html, accessed 2 March 2006).

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Northern Territory Government Department of Planning and Infrastructure: *Information Bulletin CPV13: Limousine Licence*, effective 14 December 2005 (sourced from www.ipe.nt.gov.au/whatwedo/taxis/information-bulletins.html accessed 2 March 2006).

Northern Territory Government, Department of Infrastructure, Planning and Environment: *Northern Territory Private Hire Car & Limousine Requirements and In-Service Maintenance Standards*, December 2003 (sourced from www.ipe.nt.gov.au/whatwedo/taxis/in-service-maintenance-standards.html accessed 20 March 2006).

Queensland Transport: *Information Bulletin PT 08/11.05 Limousine Service Licences* (sourced from Queensland Transport website: www.transport.qld.gov.au/qt/PubTrans.nsf/index/OADAInformationbulletins accessed 7 March 2006).

Queensland Transport: *Information Bulletin PT204/11.05: Operator Accreditation for Limousines* (sourced from Queensland Transport website: www.transport.qld.gov.au/qt/PubTrans.nsf/index/OADAInformationbulletins accessed 7 March 2006).

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