

**PARLIAMENT OF VICTORIA**

**LEGISLATIVE COUNCIL**

**Economy and Infrastructure Committee**



# ***Inquiry into the Commercial Passenger Vehicle Industry Act 2017 reforms***

Parliament of Victoria  
Legislative Council Economy and Infrastructure Committee

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Ordered to be published

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VICTORIAN GOVERNMENT PRINTER  
November 2019

PP No 90, Session 2018-19  
ISBN 978 1 925703 84 9 (print version), 978 1 925703 85 6 (PDF version)

# Committee membership



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# About the Committee

## Functions

The Economy and Infrastructure Standing Committee is established under the Legislative Council Standing Orders Chapter 23—Council Committees and Sessional Orders.

The Committee's functions are to inquire into and report on any proposal, matter or thing concerned with agriculture, commerce, infrastructure, industry, major projects, public sector finances, transport and education.

The Economy and Infrastructure Committee (References) may inquire into, hold public hearings, consider and report on other matters that are relevant to its functions.

The Economy and Infrastructure Committee (Legislation) may inquire into, hold public hearings, consider and report on any Bills or draft Bills referred by the Legislative Council, annual reports, estimates of expenditure or other documents laid before the Legislative Council in accordance with an Act, provided these are relevant to its functions.

Government Departments allocated for oversight:

- Department of Jobs, Precincts and Regions
- Department of Transport
- Department of Education and Training
- Department of Treasury and Finance.

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This report is available on the Committee's website.

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# Terms of reference

## Inquiry into the *Commercial Passenger Vehicle Industry Act 2017* reforms

On 20 February 2019, the Legislative Council agreed to the following motion:

That this house:

1. notes the *Commercial Passenger Vehicle Industry Act 2017* came into operation on 2 July 2018;
2. accepts this legislation is now in operation and that ridesharing services are a legitimate part of the economy;
3. further notes that—
  - a. the Andrews Labor government began issuing licences for the nominal fee of \$52.90 and at 31 January 2019 licences issued increased to 11,807 taxi licences and 50,152 hire car licences
  - b. the Andrews Labor government paid compensation of \$100,000 per licence for the first licence and \$50,000 each per licence for three subsequent licences to a maximum of \$250,000 and a \$1 levy per trip was raised, to cover transition cost;
  - c. the ‘fairness fund’ was established to support the many cases of severe hardship;
4. acknowledges that the High Court has found taxi licences to be property; and
5. requires that the Economy and Infrastructure Committee meet within 14 days of its establishment\* to review the government’s CPV (Commercial Passenger Vehicle) reforms, and subsequently report within six months after the committee first meets regarding the operation of the CPV reforms and investigate further reforms to ensure Victorians benefit from the best functioning CPV industry possible.

\* The reporting date for this inquiry has been changed to 28 November 2019.



# Chair's foreword

The arrival of rideshare services has been the biggest change to the commercial passenger vehicle industry across the world in recent years. All jurisdictions have struggled to respond in a way that balances the interests of consumers looking for cheap, high quality transport and an industry intent on providing a good living to its members.

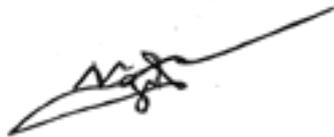
This issue is taken very seriously by the Victorian Parliament, which has supported three Parliamentary Inquiries over the past three years. This latest report considers the impacts the reforms introduced by the *Commercial Passenger Vehicle Industry Act 2017* have had on the industry, including public safety, driver remuneration and competition.

The disruption caused by rideshare has been so dramatic that it is difficult for any Parliament to devise legislation in this area. Both rideshare and this legislation are here to stay, however, and I trust the recommendations included in this report help support a vibrant and sustainable commercial passenger vehicle sector that meets the needs of consumers and industry alike.

I would like to thank everyone who participated in this Inquiry. The Committee received 315 submissions and heard from 21 witnesses across three public hearings. The evidence we received from individual drivers, industry bodies and the regulators was invaluable in helping the Committee understand the issues and write this report.

I also thank my fellow Committee members from across the political spectrum for the constructive way in which they approached this Inquiry, and thank our secretariat staff, Patrick O'Brien, Matt Newington, Alice Petrie and Justine Donohue, for their support and hard work in helping to deliver this report.

I commend this report to the Parliament.



**Nazih Elasmr MLC**  
Chair



# Executive summary

## Chapter 1

Chapter 1 outlines the changes to the commercial passenger vehicle industry introduced in 2017. It begins by covering the two parliamentary inquiries preceding these reforms that investigated the rideshare industry and the Commercial Passenger Vehicle Industry Bill 2017. It then discusses the reforms, including licence structure, annual fees and fares. The Chapter ends with a timeline of previous reviews of the industry going back to 1993, with a focus on the Fels Inquiry, followed by a brief discussion of the legalisation of the rideshare industry in Victoria.

## Chapter 2

Chapter 2 provides a summary of commercial passenger vehicle industry regulatory reform in all other Australian jurisdictions. This includes reform of licence schemes and financial and other assistance provided to industry members affected by reform, with the caveat that caution must be taken when comparing jurisdictions, due to large differences in industry size. The Chapter also includes recent developments in the regulation of the commercial passenger vehicle industry in California, New York City and London.

## Chapter 3

Chapter 3 considers the impact of the reforms on former and current licence holders. The main component of the Chapter covers the ongoing financial and health impacts, as well as the Victorian Government's transitional and hardship funding, including the Fairness Fund. Other issues discussed in the Chapter include:

- the effects of increased supply on the industry
- touting
- the commercial passenger vehicle industry levy
- employment and safety conditions in the industry.



# Recommendations

## 3 Impacts of the reforms

**RECOMMENDATION 1:** That the Victorian Government provide counselling services for stakeholders affected by the commercial passenger vehicle industry reforms. 34

**RECOMMENDATION 2:** That the Victorian Government consider reviewing the transitional funding package and how it was structured, in particular in relation to the difference between entities and individuals. 35

**RECOMMENDATION 3:** That when designing future compensation payments the Victorian Government take into consideration the taxation outcomes of proposals before they are put into place, to ensure the payments represent maximum value for Victorians. This should include seeking advice from external tax experts and proactively engaging with the Australian Tax Office. 42

**RECOMMENDATION 4:** That the Victorian Government provide financial advice on managing debt to former licence holders who are experiencing significant financial hardship as a result of the reforms. 43

**RECOMMENDATION 5:** That the Victorian Government develop a policy position on the commercial passenger vehicle industry that clarifies its stance on:

- long-term employment conditions
- driver standards
- supply of vehicles
- fares and pricing.

45

**RECOMMENDATION 6:** That the Victorian Government require booking service providers to disclose their trip data and provide live data on the number of vehicles logged into their systems. This information would be used by the Department of Transport in understanding congestion problems in central Melbourne. 46

**RECOMMENDATION 7:** That the Victorian Government amend the *Commercial Passenger Vehicle Industry Act 2017* to reintroduce an offence for touting across Victoria. 47

**RECOMMENDATION 8:** That the Victorian Government review the \$1 commercial passenger vehicle industry levy to clarify its position on:

- considerations for rebates or removal of the levy in regional centres
- the levy's finishing date
- consideration of alternative funding models.

50

**RECOMMENDATION 9:** That the Victorian Government review the maximum fares set by the Essential Services Commission and introduce fare pricing indexation in line with the Consumer Price Index.

51

**RECOMMENDATION 10:** That the Victorian Government consider introducing fare pricing for booked commercial passenger vehicle services.

51

**RECOMMENDATION 11:** That the Victorian Government review the disparity in fares and driver incomes across the commercial passenger vehicle industry with a view to ensuring the sector is a level playing field for all participants.

51

**RECOMMENDATION 12:** That the Victorian Government consider requiring CCTV cameras to be installed in all commercial passenger vehicles.

53

**RECOMMENDATION 13:** That the Victorian Government review current signage and identification requirements for commercial passenger vehicles to ensure they protect public safety without being unnecessarily onerous on the industry.

54

# What happens next?

There are several stages to a parliamentary inquiry.

## The Committee conducts the Inquiry

This report on the *Commercial Passenger Vehicle Industry Act 2017* reforms is the result of extensive research and consultation by the Legislative Council's Economy and Infrastructure Committee at the Parliament of Victoria.

We received written submissions, spoke with people at public hearings, reviewed research evidence and deliberated over a number of meetings. Experts, government representatives and individuals expressed their views directly to us as Members of Parliament.

A Parliamentary Committee is not part of the Government. Our Committee is a group of members of different political parties (including independent members). Parliament has asked us to look closely at an issue and report back. This process helps Parliament do its work by encouraging public debate and involvement in issues. We also examine government policies and the actions of the public service.

You can learn more about the Committee's work, including all of its current and past inquiries, at: <https://www.parliament.vic.gov.au/eic-lc>.

## The report is presented to Parliament

This report was presented to Parliament and can be found at: <https://www.parliament.vic.gov.au/eic-lc/article/4147>.

## A response from the Government

The Government has six months to respond in writing to any recommendations we have made. The response is public and put on the inquiry page of Parliament's website when it is received at: <https://www.parliament.vic.gov.au/eic-lc/article/4207>.

In its response, the Government indicates whether it supports the Committee's recommendations. It can also outline actions it may take.



# Victorian commercial passenger vehicle industry reforms

## 1.1 Introduction

The *Commercial Passenger Vehicle Industry Act 2017* and *Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017* are the latest in a long line of reforms to the industry in Victoria. In Chapter 1 of this report, the Committee provides a timeline of reviews and reforms over the past 25 years. The most significant of these, prior to the introduction of these Acts, were the Fels Inquiry in 2011–2012 and the arrival of ridesharing in Victoria around the same time.

The main reforms resulting from the Acts (and associated Regulations) were replacing the previous limited licencing system with an unlimited number of ‘commercial passenger vehicle registrations’, making changes to fare structures and legalising rideshare services. Also shortly after this, the regulator of the taxi and hire car industries, the Taxi Services Commission, which had replaced the Victorian Taxi Directorate, became Commercial Passenger Vehicles Victoria.

All jurisdictions in Australia have made reforms to their commercial passenger vehicle industry over recent years. The Committee investigates these in Chapter 2 of this report, comparing changes across the country. It is worth noting, though, that direct comparisons are problematic. This is because each jurisdiction varies greatly, in population and industry size and the different approaches taken to regulate the sector.

The Committee’s main task in this Inquiry was to investigate all of the recent reforms to the industry in Victoria, including the performance of the regulator. Two issues of concern remain for former licence holders:

- the amount of transition payments provided to licence owners by the Victorian Government following the revoking of the licences
- the drop in driver income following the sharp increase in commercial passenger vehicle drivers.

These issues are addressed in Chapter 3 of this report.

The Committee was also tasked with considering recommendations for future reforms. A problem the Committee faced in developing recommendations was understanding the Victorian Government’s vision for the industry. Government literature and comments from Ministers around the reforms focused solely on the consumer. For example, the Government wanted increased competition in the industry to deliver lower fares and an improved service for the consumer. The Government also identified a need to

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improve safety standards, however recent media coverage shows that Victoria Police is concerned about an increase in crimes committed by rideshare drivers in particular.<sup>1</sup> Safety is discussed in Chapter 3 of this report.

While fares have certainly dropped—temporarily in the case of rideshare services—and the industry has acknowledged the benefits of competition, the *Commercial Passenger Vehicle Industry Act 2017* does not provide any employment safeguards for drivers working in the industry. Although the Committee does note the Victorian Government’s current inquiry into the on-demand workforce,<sup>2</sup> which may address this area, particularly for rideshare drivers, and which is due to report at the end of 2019.

The waters are further muddied by the fact that rank and hail taxi fares are regulated by the Essential Services Commission, which has not raised maximum fares for the past three reviews going back to 2014.

The absence of any reference to drivers in the legislation may be an insight to the Government’s views. Regardless, the Committee believes there is a pressing need for the Victorian Government to clarify whether it sees the commercial passenger vehicle industry being completely shaped by market forces or if it believes government still has a role in ensuring a healthy sector for consumers and drivers alike.<sup>3</sup> Such a clarification will provide industry members with the certainty needed to plan for their future.

## 1.2 Background

In 2017, the Victorian Government passed legislation to reform the commercial passenger vehicle industry. These were some of the most significant reforms to the industry Victoria has seen in the past 30 years. The objectives of the reforms were to promote competition and increase public confidence and safety standards in the industry.<sup>4</sup>

This report focuses on the impact of the 2017 reforms. Victoria is not the only Australian jurisdiction to implement reforms to its commercial passenger vehicle industry. Every other state and territory has implemented regulatory changes to legalise rideshare (also known as ride sourcing) and address supply issues in the taxi industry. However, as the Committee explains in Chapter 2 of this report, apart from the Northern Territory, Victoria is the only jurisdiction to revoke or cancel commercial passenger vehicle licences.

Each jurisdiction’s position is unique due to differences in the licencing and regulatory environment of former taxi and hire car industries and the transitional assistance

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1 For example, see: SBS News, *Rape by fraudulent Uber driver sparks safety concerns among rideshare passengers and lawmakers*, 2019, accessed 18 October 2019.

2 Engage Victoria, *Inquiry into the Victorian On-Demand Workforce*, 2018, <<https://engage.vic.gov.au/inquiry-on-demand-workforce>> accessed 7 October 2019.

3 For example, as mentioned in Chapter 2, New South Wales, Queensland and South Australia froze the issuing of some types of new licences for a number of years while their industries adjusted to recent reforms.

4 *Commercial Passenger Vehicle Industry Act 2017* (Vic) s 10.

provided to industry members. While it is difficult to consider the effectiveness of Victoria's industry transition relative to other jurisdictions, there are comparable trends and lessons that can be learned. These are discussed in detail in Chapter 2 of this report.

The Committee heard from many former taxi and hire car licence holders who have been affected by the reforms. This has left many of them in financial hardship, due to:

- the loss of income from taxi fares as a result of increased supply in the market
- the abolition of licences, which in many cases was intended to fund their superannuation
- debt incurred to finance licence purchases, which has been compounded by loss of income.

Many submitters to the Inquiry requested confidentiality due to the financial and personal stress they are experiencing after the reforms. The financial and other impacts of the reforms on stakeholders are discussed in detail in Chapter 3 of this report.

### 1.3 Previous parliamentary inquiries

In the 58th Parliament, the Legislative Council Economy and Infrastructure Committee twice inquired into aspects of the commercial passenger vehicle industry, in particular the legalisation of ridesharing and the associated effects on the industry.

#### **Inquiry into Ride Sourcing Services (report tabled 23 March 2017)**

The Inquiry found that:

- ride sourcing services were operating without licence or regulation and gained an unfair advantage
- taxi and hire car stakeholders had invested in assets which had lost value and should be compensated through transitional provisions
- further changes were required to address these issues and establish a 'level playing field'.<sup>5</sup>

#### **Inquiry into the Commercial Passenger Vehicle Industry Bill 2017 (report tabled 8 June 2017)**

The Inquiry examined the provisions of the Commercial Passenger Vehicle Industry Bill 2017 and made recommendations to amend the Bill and other aspects of the industry transition scheme. Key recommendations included:

- a reduction in the proposed levy to fund transitional payments

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<sup>5</sup> Parliament of Victoria, Economy and Infrastructure Committee, *Inquiry into ride sourcing services*, March 2017, p. xi.

- providing a ‘sunset’<sup>6</sup> provision to specify an end to the collection period of the levy
- removing the cap for total payments under the Fairness Fund
- consideration of increased transition payments for taxi and hire car licence holders.<sup>7</sup>

## 1.4 The reforms

The Victorian Government announced its reforms to the commercial passenger vehicle industry in 2016. The reforms were introduced in two stages and have been in operation since 1 July 2018. The primary purposes of the changes were to legalise ridesharing and introduce uniform regulation over the commercial passenger vehicle industry.

The *Commercial Passenger Vehicle Industry Act 2017* was passed in August 2017. It implemented the following changes:

- abolition of the former taxi and hire car licencing framework, converting existing licence categories to one category of taxi licence and one category of hire car licence
- reduction in the annual fee for licences/registrations
- broadening regulatory coverage from taxi network service providers to ‘booking service providers’ to encompass rideshare providers
- introduction of a \$1 levy per trip<sup>8</sup> paid by the business taking the booking to fund transition payments and hardship payments under the Fairness Fund set up to assist former licence holders experiencing significant financial difficulty as a result of the reforms.

Stage two of the reforms were introduced in the *Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017*. These included:

- introduction of a vehicle registration system, replacing ‘taxis’ and ‘hire cars’ with a single category of ‘commercial passenger vehicle’. These are registered either to provide ‘booked’ services (pre-authorised trips, including on rideshare and taxi mobile apps) or ‘unbooked’ services (trips hailed from the street and at taxi ranks)
- abolition of taxi and hire car operating zones
- introduction of flexible fares, by allowing providers of booked services to set their own fares for trips (fares for unbooked services continue to be regulated by the Essential Services Commission)

6 A sunset provision in legislation allows for the law to automatically cease on a nominated date. It has been suggested that a sunset provision should be included for the levy so that it is revoked after a certain time or after certain funds have been recovered.

7 Parliament of Victoria, Economy and Infrastructure Committee, *Inquiry into the Commercial Passenger Vehicle Industry Bill 2017*, June 2017, p. xi.

8 Excluding GST.

- introduction of safety duties for industry participants<sup>9</sup>
- changing the name of the regulator from the Taxi Services Commission to the Commercial Passenger Vehicle Commission, with the Commission then making the decision to trade as Commercial Passenger Vehicles Victoria (CPVV).<sup>10</sup>

As vehicle registration is now available for a comparatively small annual fee<sup>11</sup> and supply is unrestricted, the value of former taxi and hire car licences was reduced to effectively zero. At their height, these licences had been traded at values over \$500,000.

### 1.4.1 Scrutiny of Acts and Regulations Committee

The Scrutiny of Acts and Regulations Committee has functions under the *Parliamentary Committees Act 2003* to consider Bills introduced into the Parliament, and report on how they interact with a number of scrutiny principles.<sup>12</sup> These include whether Bills trespass unduly upon rights or freedoms or inappropriately delegate legislative power. The Committee also considers whether Bills are incompatible with human rights as set out in the *Charter of Human Rights and Responsibilities Act 2006*.

The Committee reported on the Commercial Passenger Vehicle Industry Bill 2017 in *Alert Digest No. 3 of 2017*,<sup>13</sup> which was tabled in Parliament on 7 March 2017. In this Alert Digest the Committee discussed a number of scrutiny matters, including certain questions regarding the human rights compatibility of the Bill. In particular, the Committee considered clauses 31 and 34, which provided for the revocation of taxi licences. It stated that:

... the legacy holders of perpetual taxi cab licences, who generally will have paid \$150,000 or more for their taxi cab licence, will have their perpetual licence replaced with a new taxi cab licence that has no re-sale value.<sup>14</sup>

The Committee subsequently wrote to the Minister for Public Transport seeking additional information on the compatibility of these provisions with property rights under the Charter.<sup>15</sup> These provide that a person ‘must not be deprived of his or her property other than in accordance with law’.<sup>16</sup> The Committee also stated that it would

<sup>9</sup> *Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017* (Vic) s pt 2 div 3. See pt 2 div 3. These include, for example, that the owner of a commercial passenger vehicle must adequately maintain the vehicle and that booking service providers must provide training to drivers on driver fatigue and emergency management.

<sup>10</sup> For simplicity, the regulator is referred to as Commercial Passenger Vehicles Victoria in this report regardless of the time period.

<sup>11</sup> \$55.10 per year at the time of writing. See, Commercial Passenger Vehicles Victoria, *Fees and charges*, 2 August 2019, <<https://cpv.vic.gov.au/drivers/fees-and-charges>> accessed 4 September 2019.

<sup>12</sup> *Parliamentary Committees Act 2003* (Vic) s 17.

<sup>13</sup> Scrutiny of Acts and Regulations Committee, *Alert Digest No. 3 of 2017*, Parliament of Victoria, 2017, pp. 1-7.

<sup>14</sup> *Ibid.*, p. 5.

<sup>15</sup> *Ibid.*, p. 6.

<sup>16</sup> See, *Charter of Human Rights and Responsibilities Act 2006* (Vic), s 20 – Property rights.

request further information regarding the compatibility of information-gathering powers<sup>17</sup> with the right not to self-incriminate and the right to freedom of movement.<sup>18</sup>

The Committee published a response from the Minister in its subsequent report, *Alert Digest No. 4 of 2017*.<sup>19</sup> It did not make any further comment on the Bill.

The Committee later published on its website correspondence received from the Victorian Hire Car Association that included subsequent legal advice the Association had obtained. This raised concerns around the content of the Minister's response. The Committee made no further comment on the correspondence.

The Commercial Passenger Vehicle Industry Amendment (Further Reforms) Bill 2017 was determined by the Committee to be compatible with the human rights set out in the Charter in its *Alert Digest No. 15 of 2017*.<sup>20</sup>

## 1.4.2 Changes to licence structure

Before the reforms, commercial passenger vehicles were licenced as either taxis or hire cars and required to operate within a licence zone. This restricted the vehicles from entering other zones to pick up passengers or to pick up passengers in other zones as 'return work' when driving back to their zone.

There were four operating zones for taxis:

- metropolitan (Melbourne and surrounds within the urban growth boundary)
- urban (outer suburbs such as Dandenong, Frankston and the Mornington Peninsula and large regional areas, such as Geelong, Bendigo and Ballarat)
- regional (population areas of around 10,000–20,000 such as the Latrobe Valley and Shepparton)
- country (all other parts of the state).<sup>21</sup>

Hire car licences were zoned as either metropolitan or country.

In addition, two types of licences were available for specialist hire cars: Special Purpose;<sup>22</sup> and Restricted Hire.<sup>23</sup>

<sup>17</sup> This was a result of amendment of the *Taxation Administration Act 1997* (Vic).

<sup>18</sup> Scrutiny of Acts and Regulations Committee, *Alert Digest No. 3 of 2017*, pp. 6-7.

<sup>19</sup> Scrutiny of Acts and Regulations Committee, *Alert Digest No. 4 of 2017*, Parliament of Victoria, 2017, pp. 14-7.

<sup>20</sup> Scrutiny of Acts and Regulations Committee, *Alert Digest No 15 of 2017*, Parliament of Victoria, 2017, p. 3.

<sup>21</sup> Commercial Passenger Vehicles Victoria, *Taxi zones map descriptions*, 21 September 2018, <<https://web2.economicdevelopment.vic.gov.au/taxi/about-us/taxi-and-hire-car-zones-map-descriptions>> accessed 20 June 2019; Taxi Industry Inquiry, *Customers first: service, safety, choice: Taxi industry inquiry: final report*, report prepared by Professor Allan Fels AO, report for Taxi Services Commission, Taxi Services Commission, Melbourne, 2012.

<sup>22</sup> Wedding cars and tour vehicles.

<sup>23</sup> Vehicles over 25 years old, used for services not available to standard hire cars (e.g. motorcycles, 4WD, off-road, adventure tour vehicles), 8-9 seats used in connection with a tour package.

As discussed, under the reforms all previous licences were abolished and replaced with vehicle authorisations enabling the provision of unbooked or booked services. Abolition of the existing operating zones allowed vehicles to operate throughout Victoria.

As a result, many licence owners lost a considerable asset that they considered 'property'. According to documents provided by Commercial Passenger Vehicles Victoria, in 2010–11 perpetual metropolitan taxi licences were privately traded for over \$500,000 each.<sup>24</sup> In some instances, at the time of the reforms the licence owners still owed considerable amounts to banks and had taken mortgages on property as collateral for the loans. The issue of licences as property is discussed in detail in Chapter 3.

The Victorian Government provided transition payments to taxi and hire car licence holders on an *ex gratia*<sup>25</sup> basis. The amount differed based on the licence type and the number of licences. Recipients were eligible for compensation for up to four licences. A total of \$329 million was paid to 4,139 licence holders.<sup>26</sup>

Table 1.1 below lists the amount payable for each licence.

**Table 1.1** Transitional payments by licence type

Licence type	First licence \$	Second, third and fourth licences \$
<b>Taxi licences</b>		
Urban/Metro	100,000	50,000
Regional	50,000	25,000
Country Taxi	15,000	7,500
Urban/Metro fixed-term	33,750	16,875
Other fixed-term and annual licences	Annual fee rebate	Annual fee rebate
<b>Hire car licences</b>		
Metropolitan Hire	25,000	12,500
Country Hire	12,500	6,250
Special Purpose, Restricted Hire	1,250	625

Source: Commercial Passenger Vehicles Victoria, *Submission 311*, p. 13.

<sup>24</sup> Paul Younis, Secretary, Department of Transport, correspondence, 21 August 2019, p. 84.

<sup>25</sup> 'By favour'. In a legal context this refers to payments made voluntarily out of a sense of equity or moral obligation rather than a legal requirement.

<sup>26</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, p. 18.

Many inquiry stakeholders considered that the payments were inadequate and that the cap on the number of licences eligible for compensation was unfair. These issues are discussed in detail in Chapter 3.

In addition, the Committee received evidence on the Fairness Fund. Payments were considered through an application process administered by the former Department of Economic Development, Jobs, Transport and Resources with assistance from consulting firm KPMG. The Fund was open for applications for a five-month period up to 30 April 2017<sup>27</sup> and all applications were assessed by mid-2018.<sup>28</sup>

Many inquiry stakeholders criticised the administration of the Fairness Fund citing a perceived lack of transparency of the Fund's criteria and delays in processing the applications. These issues were also analysed in a report by the Victorian Ombudsman.<sup>29</sup> The Committee discusses the Fairness Fund further in Chapter 3 of this report.

### 1.4.3 Reduction of annual fees and removal of barriers to entry

Before the reforms were introduced, taxi licences were either perpetual licences or fixed-term licences leased from the Government for an annual fee. This restricted the supply of taxis in two ways:

- a cap on the number of licences issued by the Government (up until the reforms introduced following the Fels Report in 2012, see 1.4.1 below)
- the high cost of licences for new entrants (a peak value of over \$500,000 for a privately traded perpetual licence and \$23,000 per year for a government-leased licence).<sup>30</sup>

Following implementation of the reformed licence structure, annual fees were significantly reduced. At the time of writing, commercial passenger vehicle registration was available for an annual fee of \$55.10 and driver accreditation attracted an application fee of \$76.30<sup>31</sup> with an annual fee of \$34.00.<sup>32</sup>

### 1.4.4 Changes to fare regulation

In 2002, the Essential Services Commission gained a role in taxi fare setting.<sup>33</sup> Maximum fares were set by the Minister for Transport on advice received from reports by the Essential Services Commission. The Essential Services Commission was granted

<sup>27</sup> Victorian Ombudsman, *Investigation into the administration of the Fairness Fund for taxi and hire car licence holders*, Ombudsman Victoria, Melbourne, 2018, p. 7.

<sup>28</sup> Department of Transport, *Submission 312*, p. 3.

<sup>29</sup> Victorian Ombudsman, *Investigation into the administration of the Fairness Fund for taxi and hire car licence holders*.

<sup>30</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, pp. 9, 10.

<sup>31</sup> Applicants can apply for accreditation via mutual recognition which cost \$29.40 at the time of writing. Commercial Passenger Vehicles Victoria, *Fees and charges*.

<sup>32</sup> Ibid.

<sup>33</sup> Taxi Industry Inquiry, *Customers first: service, safety, choice: Taxi industry inquiry: draft report*, report prepared by Professor Allan Fels AO, report for Taxi Services Commission, Taxi Services Commission, Melbourne, 2012, p. 462.

authority to set the maximum taxi fares as a result of a recommendation in the Fels Inquiry into the industry (see section 1.4.1).<sup>34</sup>

The Essential Services Commission retained this role following the 2017 reforms and continues to review the maximum fares for unbooked commercial passenger vehicles every two years.<sup>35</sup>

Melbourne Airport also charges taxi drivers for collecting passengers from airport taxi ranks. The Essential Services Commission allows drivers to charge passengers an airport rank fee up to the amount of Melbourne Airport's access fee.<sup>36</sup>

In addition, the Essential Services Commission sets the non-cash payment surcharge for taxis. This surcharge applies when a passenger pays for their fare using payment methods other than cash, such as credit or debit cards.

## 1.5 Previous reviews of the taxi and hire car industry

The commercial passenger vehicle industry has been subject to several reviews over the past 30 years. The outcomes of these have ranged from minor policy and operational changes to major industry reforms. The Committee has considered the outcomes of these reviews and they have informed this report's findings and recommendations.

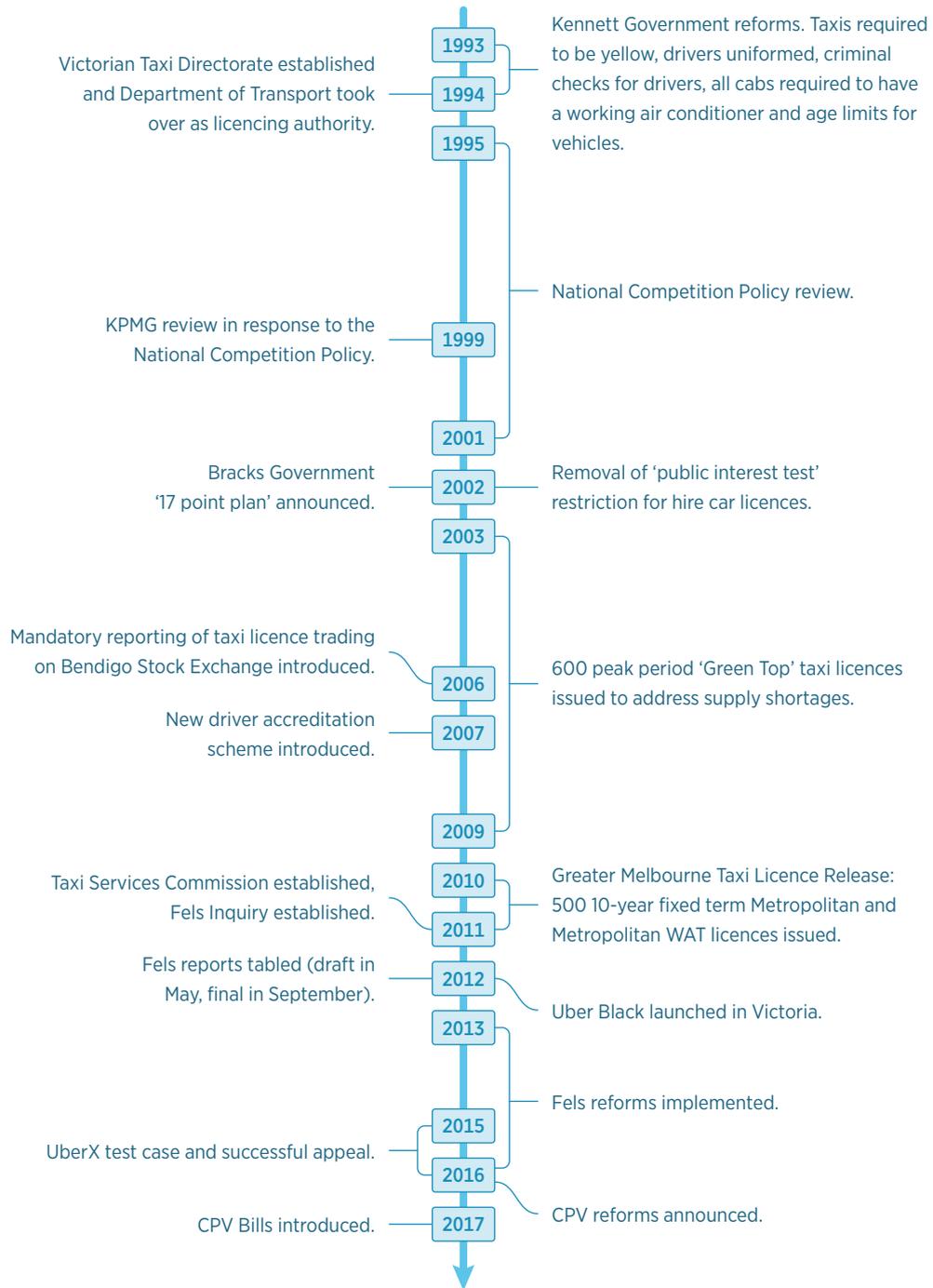
Figure 1.1 provides a timeline of some of the key reforms over the past 30 years.

<sup>34</sup> Taxi Industry Inquiry, *Customers first: service, safety, choice*, p. 206.

<sup>35</sup> Essential Services Commission, *Commercial passenger vehicle prices*, <<https://www.esc.vic.gov.au/transport/commercial-passenger-vehicles/commercial-passenger-vehicle-prices>> accessed 4 July 2019.

<sup>36</sup> Essential Services Commission, *Schedule of maximum taxi fares review 2016*, <<https://www.esc.vic.gov.au/transport/commercial-passenger-vehicles/commercial-passenger-vehicle-prices/maximum-taxi-fares/schedule-maximum-taxi-fares-review-2016>> accessed 4 July 2019.

Figure 1.1 Timeline of taxi and hire car industry reviews and reforms



Source: Legislative Council Economy and Infrastructure Committee

The Fels Inquiry and the legalisation of rideshare were the two most significant changes to the industry prior to the 2017 reforms. Due to their impact on the subsequent reforms, both are summarised below.

There is ongoing dissatisfaction in the commercial passenger vehicle industry around government responses to major industry challenges. In particular:

- licence pricing in the private market was allowed to reach unsustainable levels
- Uber was able to operate illegally in Victoria while simultaneously disrupting the commercial passenger vehicle industry through lower pricing.
- Many in the industry believe that these issues were not adequately addressed and contributed to ongoing uncertainty in the industry.

### 1.5.1 Fels Inquiry

The Fels Inquiry introduced some of the biggest changes to Victoria's taxi framework since the industry's inception. Premier Ted Baillieu initiated the inquiry in 2011, identifying key issues with the industry at the time as:

- low customer satisfaction
- safety and security for passengers and drivers
- insufficient support for drivers
- poorly-skilled drivers
- a high turnover of drivers resulting in a shortage of experienced drivers
- complex ownership and management structures
- a lack of competition
- too much industry revenue not being directed to taxi drivers and operators.<sup>37</sup>

Professor Allan Fels AO was appointed as Chair of the inquiry and identified his key tasks as being:

- improving low levels of public confidence
- providing better security and support services for drivers and safety for customers
- ensuring drivers are properly trained and knowledgeable.<sup>38</sup>

Professor Fels published a draft report in May 2012 and a final report in September 2012. The inquiry found that for many years the Victorian taxi industry had operated as a 'closed shop' that protected and benefitted 'a small number of licence holders ... at the direct expense of users, operators and drivers'.<sup>39</sup>

<sup>37</sup> Taxi Industry Inquiry, *Customers first: service, safety, choice*, p. 34.

<sup>38</sup> *Ibid.*, p. 32.

<sup>39</sup> Taxi Industry Inquiry, *Summary—Customers first: service, safety choice*, report prepared by Professor Allan Fels AO, report for Taxi Services Commission, Taxi Services Commission, Melbourne, 2012, p. 4.

The reform package made a suite of recommendations in three core areas:

- increasing and improving the supply of taxis and hire cars
- restoring consumer trust in the taxi industry
- boosting demand and competition in taxi and hire car services.<sup>40</sup>

A range of the recommended reforms were introduced and came into effect on 30 June 2014. Some of the key reforms implemented included:

- introducing a ‘knowledge test’ for taxi drivers (discontinued in 2016)
- simplifying taxi operating zones
- improving working conditions and remuneration for taxi drivers
- making taxi licences available as-of-right
- capping the non-cash payment surcharge.<sup>41</sup>

Fare setting flexibility was also introduced, with operators in regional and country Victoria permitted to set their own fares.

A key element of the reforms was the introduction of annual leased taxi licences alongside existing perpetual licences.

## 1.6 Legalisation of rideshare

According to Commercial Passenger Vehicles Victoria’s submission, Uber launched its Uber Black service in Victoria in 2012. At the time the service used licenced hire cars and accredited drivers. UberX was launched in 2014, using private vehicles and unaccredited drivers.

Commercial Passenger Vehicles Victoria commenced a targeted compliance strategy against UberX. In September 2014, it filed charges against 12 drivers for operating unlicensed vehicles and operating without accreditation. One matter proceeded to the Magistrates Court as a ‘test case’.

In December 2015, the Magistrates Court found an Uber driver guilty of operating an unlicensed commercial passenger vehicle and driving without accreditation. The driver appealed the decision in the County Court. In May 2016, the Court upheld the appeal, finding that section 159 of the *Transport (Compliance and Miscellaneous) Act 1983* (which dealt with the onus of proof on the accused) provided a defence to both charges.

Accordingly, Commercial Passenger Vehicles Victoria withdrew the remaining 11 cases.

<sup>40</sup> Ibid., p. 9.

<sup>41</sup> Commercial Passenger Vehicles Victoria, *Submission 311*, p. 6.

The Victorian Government subsequently repealed section 159 of the Act in June 2016<sup>42</sup> and in August 2016 announced the reforms to the commercial passenger vehicle industry discussed in this report, some of which legalised rideshare. Evidence presented to the Committee as part of this Inquiry revealed lingering dissatisfaction in the industry that the regulator continued to allow Uber to operate between June 2016 and the *Commercial Passenger Vehicle Industry Act 2017* coming into force.

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<sup>42</sup> Commercial Passenger Vehicles Victoria, *Taxi zones map descriptions*.



## 2.1 Introduction

This Chapter considers commercial passenger vehicle industry regulatory reform in all other Australian jurisdictions. Policy responses have included restructuring licencing schemes, providing industry assistance and hardship payments for affected members of the taxi industry, and implementing government ‘buybacks’ of taxi plates.

The structure, history and market conditions of these industries vary considerably between jurisdictions. In particular, each has developed complex and distinct licencing and accreditation requirements for taxi owners, drivers and service providers. For this reason, it is difficult to compare the effects of ridesharing and subsequent government action across Australian states and territories. The Committee warns that caution should be exercised when analysing comparative levels of depreciation of taxi licence values.

## 2.2 Changes to licencing schemes

### 2.2.1 New South Wales

Taxi and rideshare services are regulated in New South Wales by the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* (NSW) and the *Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017* (NSW). This followed a review process in 2015 conducted by an independent taskforce into the ongoing sustainability of taxis and emerging rideshare services in New South Wales.<sup>43</sup>

In relation to financial assistance for taxi licence holders and operators, the report produced by the taskforce stated:

While licence holders should have been aware of the significant policy risks associated with their investment in a taxi licence, we consider that it would be unfair on them if government did not recognise that it contributed to the confusion that surrounded their status ...<sup>44</sup>

Licences are now only required for taxis. Booking service providers for hire cars (including rideshare vehicles) are required to hold an ‘authorisation’ from the Point to Point Transport Commissioner, and to ensure their drivers meet new safety standards. Rideshare drivers themselves are not required to be licensed or accredited.<sup>45</sup>

<sup>43</sup> See, Point to Point Transport Taskforce, *Point to Point Transport Taskforce: Report to the Minister for Transport and Infrastructure*, Transport for NSW, NSW Government, Sydney, November 2015.

<sup>44</sup> *Ibid.*, p. 130.

<sup>45</sup> NSW Government Point to Point Transport Commissioner, *Apply for authorisation*, 2019, <<https://www.pointtopoint.nsw.gov.au/apply-authorisation>> accessed 27 August 2019.

Historical New South Wales taxi licences include perpetual, fixed-term and annual licences. These continue to operate under the same conditions as prior to the reforms, and can still be privately purchased.<sup>46</sup> In announcing its new regulatory framework, the New South Wales Government stated that it had ‘not accepted the [taskforce report’s] recommendation to create legislation to remove existing perpetual taxi licences, as this would significantly affect the rights of taxi licence owners’.<sup>47</sup>

New licences issued under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* (NSW) are granted on an annual, renewable basis. The number of licences issued in the annual release is decided according to market demands and other considerations, such as ongoing sustainability of the taxi industry. The New South Wales Government announced a four-year freeze on the release of new Sydney licences in conjunction with the reforms, in order to help the industry adjust to the new model.<sup>48</sup>

According to data published by the New South Wales Point to Point Transport Commissioner the average value of taxi licences declined prior to the introduction of ridesharing in Australia. The average price peaked at \$430,428 in September 2012, and then continued to depreciate. The most recent available data places the average transfer price of a Sydney metropolitan taxi licence in July 2019 at \$71,250.<sup>49</sup>

### Hire vehicle payments

Hire car licences are no longer required under the new Act. As a result of this change, the New South Wales Government introduced an ‘additional assistance’ package (buyback scheme) for perpetual hire car licences.<sup>50</sup>

At the closure of the scheme, a total of \$8.3 million was paid to 99 licence holders. The New South Wales Government advised the Committee that payments reflected the purchase (or issue) price of the licence, indexed by the Consumer Price Index. The average payment made was \$82,868, with the largest payment at \$232,860.<sup>51</sup>

## 2.2.2 Northern Territory

The Northern Territory Government compulsorily bought back all taxi and private hire car licences in 1999 and subsequently introduced an annual leasing mechanism for taxi licences.<sup>52</sup> As a result, the impact of ridesharing has been less pronounced.

<sup>46</sup> *Point to Point Transport (Taxis and Hire Vehicles) Act 2016* (NSW) sch 2 item 3.

<sup>47</sup> NSW Government, *Point to point transport: The NSW Government response to the taskforce report*, 2017, p. 2.

<sup>48</sup> Transport for NSW, *Taxi information: Taxi licence determinations*, 2019, <<https://www.transport.nsw.gov.au/projects/programs/point-to-point-transport/taxi-information>> accessed 21 August 2019.

<sup>49</sup> NSW Government Point to Point Transport Commissioner, Number of Transfers Recorded as at July 19: Sydney Metropolitan Transport District, *Sydney and NSW Taxi Licence Transfers Prices*, July 2019, <<https://www.pointtopoint.nsw.gov.au/sites/default/files/Sydney%20Metropolitan%20Transport%20District%20taxi%20licence%20transfer%20data%20to%20July%202019%20V3.pdf>> accessed 21 August 2019.

<sup>50</sup> NSW Government, *Point to point transport: The NSW Government response to the taskforce report*, p. 3. See, also, *Point to Point Transport (Taxis and Hire Vehicles) (Industry Adjustment) Regulation 2016* (NSW) div 1A.

<sup>51</sup> Rodd Staples, Secretary, Transport for NSW, NSW Government, correspondence, 13 August 2019, p. 1.

<sup>52</sup> Legislative Assembly of the Northern Territory, *Inquiry into Taxi Licensing and Subleasing*, Public Accounts Committee, Darwin, November 2017, pp. 20-3.

The Northern Territory Government introduced a new regulatory model for rideshare services in December 2017 through amendments to the *Commercial Passenger (Road) Transport Act 1991* (NT). The *Ridesharing Regulations 2017* (NT), made under the Act, establish rideshare as ‘special passenger vehicles’, and provide that they must be approved as suitable for use.<sup>53</sup>

The reforms also significantly reduced annual licence fees for most commercial passenger vehicle operators. For example, Darwin taxi fees were reduced from \$20,240 to \$5,000 per year. Many other licences such as private hire car and limousine licences were reduced to \$300 per year across the Northern Territory. Rideshare licences similarly cost \$300 per year.<sup>54</sup>

A cap on the number of taxi licences was introduced in 2001, and continues to apply.<sup>55</sup>

### 2.2.3 Australian Capital Territory

In the Australian Capital Territory, perpetual taxi licences reached an average price at government auctions of \$241,000 in July 1994.<sup>56</sup> Following the final release in 1995, average prices generally increased in private sales, to a high of approximately \$294,000 in 2010. They declined in value in the years following.<sup>57</sup> Data on the current value of perpetual licences is not publicly available.

The Australian Capital Territory Government legalised ridesharing in 2015 and introduced an accreditation system for drivers and non-transferrable licences for rideshare vehicles.<sup>58</sup> Existing taxi licences continue to operate alongside the new rideshare industry.<sup>59</sup>

The Australian Capital Territory Government is periodically introducing additional government-leased taxi licences in response to market demand, up to a new regulated cap of 500 licences.<sup>60</sup> This decision formed part of a second phase of reforms to its commercial passenger vehicle industry. Other reforms included reduction of the annual cost for government-leased taxi licences from \$20,000 per

<sup>53</sup> *Ridesharing Regulations 2017* (NT) ss 4(1)(c) 19.

<sup>54</sup> Planning and Logistics Department of Infrastructure, Northern Territory Government, *New Licence Fees*, February 2018, <<https://dipl.nt.gov.au/transport/transport-strategies-and-plans/commercial-passenger-vehicle-reforms/ridesharing/new-licence-fees>> accessed 19 August 2018.

<sup>55</sup> Legislative Assembly of the Northern Territory, *Inquiry into Taxi Licensing and Subleasing*, pp. 59-60.

<sup>56</sup> See Appendix D: Treasury and Economic Development Directorate Chief Minister, ACT Government, *Taxi Industry Innovation Review Discussion Paper*, ACT Government, Canberra, 2015., Appendix D.

<sup>57</sup> See, *ibid.*

<sup>58</sup> *Road Transport (Public Passenger Services) Act 2001* (ACT), Part 5A: Ridesharing. See, also, licensing requirements at *Road Transport (Public Passenger Services) Regulation 2002* (ACT), Part 3A.3: Ridesharing.

<sup>59</sup> Chief Minister, *Taxi Industry Innovation Review Discussion Paper*.; and Policy & Cabinet Division, Chief Minister, Treasury and Economic Development Directorate, ACT Government, correspondence, 14 August 2019.

<sup>60</sup> This is due to resident and tourist population increases between 2011 and 2017 in the ACT. Policy & Cabinet Division, correspondence.

year to \$5,000 per year, and removal of a number of regulatory requirements for new and ongoing taxi drivers, such as the need to wear a uniform.<sup>61</sup>

The Australian Capital Territory Government's intention regarding taxi licences is to reduce barriers for new drivers to enter the taxi industry while protecting the sustainability of the industry in the long term.<sup>62</sup> The Government has introduced a waiting list for the periodic release of new licences.

## 2.2.4 Queensland

Ridesharing was legalised in Queensland from September 2016 following the Government's release of a five-year strategic plan for its 'personalised transport' industry.<sup>63</sup>

The *Transport and Other Legislation (Personalised Transport Reform) Amendment Act 2017* (QLD) provided for government-leased annual licences to replace perpetual licences.<sup>64</sup> There are periodic releases of new licences and prices are market-driven (with an annual renewal fee of \$171.40). Existing perpetual licences were preserved<sup>65</sup> and a temporary freeze was placed on any new releases.

Rideshare services are licensed as 'booked hire services', and as of 1 July 2019 pay an annual fee of \$251.10.<sup>66</sup> Unlike taxis, rideshare drivers can access licences on demand. Provided applicants meet the criteria for holding a licence, including having undergone a vehicle safety inspection, applications can usually be made online and approved within four weeks. This process is similar to the application for driver accreditation in Victoria.

Average sale prices for perpetual licences peaked at \$503,672 in 2014 for Brisbane and \$555,858 in 2013 for the Gold Coast. Prices for all regions have fallen steadily since 2015.<sup>67</sup> Far fewer licences are being transferred compared to previous years.

All taxi and rideshare drivers are required to hold a Driver Authorisation from the Department of Transport and Main Roads.<sup>68</sup> They are also required to be affiliated with an authorised booking entity.<sup>69</sup>

61 The reduction in annual fees took place in two stages, on 30 October 2015 and 1 November 2016 respectively. ACT Government, *Taxi industry reforms*, 2019, <[https://www.accesscanberra.act.gov.au/app/answers/detail/a\\_id/3225/related/#!/tabs-2](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/3225/related/#!/tabs-2)> accessed 19 August 2019.

62 Ibid.

63 Queensland Government, *Queensland's Personalised Transport Horizon: Five Year Strategic Plan for Personalised Transport Services 2016-2021*, 2016.

64 *Transport Operations (Passenger Transport) Act 1994* (Qld), s 91F.

65 *Transport Operations (Passenger Transport) Act 1994* (Qld), s 91E.

66 Queensland Government Department of Transport and Main Roads, *Booked hire service licence*, 2019, <<https://www.tmr.qld.gov.au/business-industry/Taxi-and-limousine/Industry-information/Booked-hire/Booked-hire-service-licence#app-fees>> accessed 22 August 2019.

67 \$0 transfers have been removed. Queensland Government, *Open data portal: Limousine and taxi service licence values - Queensland*, 2019, <<https://data.qld.gov.au/dataset/limousine-and-taxi-licence-values-queensland>> accessed 28 August 2019.

68 *Transport Operations (Passenger Transport) Act 1994* (Qld) s 27.

69 *Transport Operations (Passenger Transport) Act 1994* (Qld) s 78.

## 2.2.5 Tasmania

The Tasmanian Government legalised ridesharing in November 2016.<sup>70</sup> However, it is yet to undertake further legislative reform of its commercial passenger vehicle industry.

Vehicles engaging in on-demand work are required to comply with a temporary exemption notice issued by the Transport Commission. This allows registered drivers to be exempt from accreditation requirements under the *Passenger Transport Services Act 2011* (Tas).<sup>71</sup>

Existing taxi licences comprise perpetual and owner-operator licences. Perpetual licences are privately leased or traded but are no longer issued by the Tasmanian Government. Owner-operator licences are non-transferrable and available through an annual government tender process.<sup>72</sup>

In 2018, the Tasmanian Government reported significant issues in the taxi licensing system, such as the high costs of licences, geographic constraints in boundary areas and other regulatory burdens.<sup>73</sup> It further stated that the 2008 reforms that introduced annual owner-operator taxi licences with a reserve value below the market value were designed to ‘gradually decrease the value and increase the supply of taxi licences in Tasmania’.<sup>74</sup> The report’s findings advocated for the gradual deregulation of taxi supply and streamlining of licence arrangements for all booked services.

The Tasmanian Government released a draft regulatory framework for its commercial passenger vehicle industry in September 2018. In correspondence to the Committee, the Tasmanian Government stated it expected to release the final framework in 2019.<sup>75</sup> This includes:

- deregulating the supply of owner-operator taxi licences
- deregulating fares for all booked vehicles, including taxi and rideshare services (with unbooked rank and hail work still regulated)
- regulation of drivers, vehicles and booking service providers (such as Uber).<sup>76</sup>

<sup>70</sup> *Taxi and Hire Vehicle Industries Amendment Act 2016* (Tas).

<sup>71</sup> The notice, issued under s 64(1) of the Act, grants the exemption on and from 11 September 2017 until 31 December 2019. See, Exemption notice made pursuant to s 64(1) of the *Passenger Transport Services Act 2011* (Tas).

<sup>72</sup> Department of State Growth, *Taxi and Hire Vehicle Industries Review: Review Report*, Tasmanian Government, October 2018, p. 9.

<sup>73</sup> *Ibid.*, p. 10.

<sup>74</sup> *Ibid.*

<sup>75</sup> Kim Evans, Secretary, Tasmanian Department of State Growth, correspondence, 16 July 2019, p. 1.

<sup>76</sup> Tasmanian Government Department of State Growth, *Taxi and Hire Vehicle Industries Regulatory Review*, 2019, <[https://www.transport.tas.gov.au/passenger/operators/taxi\\_hire\\_vehicle\\_and\\_ride\\_sourcing/taxi\\_and\\_hire\\_vehicle\\_operators/taxi\\_and\\_hire\\_vehicle\\_industries\\_regulatory\\_review](https://www.transport.tas.gov.au/passenger/operators/taxi_hire_vehicle_and_ride_sourcing/taxi_and_hire_vehicle_operators/taxi_and_hire_vehicle_industries_regulatory_review)> accessed 20 August 2019.

### 2.2.6 South Australia

South Australia has historically only required taxi licences for taxis operating in the Adelaide metropolitan area. These were all perpetual licences sold through a public auction process. There are no other forms of government-leased licences. Perpetual licences can be transferred or leased, but not sub-leased.

Following a review of the taxi and chauffeur vehicle industry, the South Australian Government introduced amendments to the *Passenger Transport Act 1994 (SA)*.<sup>77</sup> The amendments included:

- extension of the accreditation process for taxi drivers to rideshare drivers
- reduced accreditation fees for all drivers
- introduction of an industry assistance package
- increase in taxi fares.<sup>78</sup>
- In addition, a freeze was placed on the release of new taxi licences for at least five years.<sup>79</sup>

At 1 June 2019, 3,880 vehicles were registered as rideshare services in South Australia.

There is limited data available on the depreciation of the value of South Australian taxi licences. However, the South Australian Government's review report (prior to industry reform) stated that the 2015 price of a perpetual licence was approximately \$300,000. This was a decrease from the average price of \$377,000 in 2011.<sup>80</sup>

### 2.2.7 Western Australia

Western Australia announced significant changes to its commercial passenger vehicle industry in November 2017, and subsequently enacted the *Transport (Road Passenger Services) Act 2018 (WA)*. These reforms followed earlier financial support to certain taxi plate owners to assist with industry transition.

The Act reformed the existing licensing framework and introduced a single 'passenger transport vehicle authorisation' system with different categories of service. These include on-demand charter (rideshare and charter services) and

<sup>77</sup> As amended by Part 8 of the *Statutes Amendment (Budget 2016) Act 2016 (SA)*. See, also, *Passenger Transport Regulations 2009 (SA)*.

<sup>78</sup> Transport and Infrastructure Department of Planning, *Taxi and Chauffeur Vehicle Industry Reform: Changes to the Taxi, Chauffeur and Rideshare Vehicle Industry in South Australia*, Government of South Australia, October 2016.

<sup>79</sup> Tony Braxton-Smith, Chief Executive, South Australian Department of Planning, Transport and Infrastructure, correspondence, 25 July 2019.

<sup>80</sup> Transport and Infrastructure Department of Planning, *South Australian Taxi and Chauffeur Vehicle Industry Review*, SA Government, February 2016, p. 50.

on-demand rank and hail (taxi services).<sup>81</sup> It also introduced a voluntary taxi licence buyback scheme.<sup>82</sup>

Western Australia had previously issued perpetual taxi licences, which in 2013-14 were worth up to \$325,000.<sup>83</sup> If owners of perpetual licences did not wish to participate in the buyback, they were automatically transitioned to the new vehicle authorisation on 2 July 2019.<sup>84</sup>

### Buyback scheme

The voluntary buyback scheme allowed Perth metropolitan licence holders to sell their licences back to the Government. The value of each licence was determined on a 'sliding scale' taking into consideration a number of factors, with a minimum payment of \$100,000.<sup>85</sup>

This mechanism was considered by some inquiry stakeholders as a more equitable means of compensating taxi drivers for industry reform. It is important to note that a number of conditions differ between Western Australia and Victoria, including the number and type of licences that were eligible for financial assistance. As a result the Committee emphasises that the two approaches cannot strictly be compared.

The eligibility criteria and structure of the scheme are broadly set out in the *Transport (Road Passenger Services) Act 2018* (WA). The Department of Transport made a case-by-case assessment on the value of each licence. The assessment reviewed a number of conditions, including:

- the length of time the licence holder had owned the licence
- the original price paid for the licence
- how much the licence was calculated to have earned over time.<sup>86</sup>
- The highest payment made for an individual licence was \$250,255.<sup>87</sup>

Certain licence holders who had recently sold their licences on the private market were also able to apply for payments.<sup>88</sup> The eligible amount reflected what would have been paid to them should they have retained their licence and participated in the buyback, minus any proceeds from their sale of the licence. This was aimed

<sup>81</sup> *Transport (Road Passenger Services) Act 2018* (WA) pt 6—passenger transport vehicles.

<sup>82</sup> *Transport (Road Passenger Services) Act 2018* (WA) pt 9—voluntary buyback and adjustment assistance payment schemes and levy.

<sup>83</sup> WA Government Department of Transport, *Proposal for Industry Funded Voluntary Buy-Back Scheme of Perth Owned Taxi Plates: Supplementary Decision Regulatory Impact Statement*, WA Government, 2017, p. 1.

<sup>84</sup> *Transport (Road Passenger Services) Act 2018* (WA) s 295.

<sup>85</sup> A minimum benchmark of \$40 000 applies for Perth metropolitan area restricted plates and \$28 000 for peak period plates.

<sup>86</sup> WA Government Department of Transport, *On-demand transport reform: Voluntary buyback for taxi plate owners*, 2019, <<https://www.transport.wa.gov.au/On-demandTransport/voluntary-buy-back-for-taxi-plate-owners.asp>> accessed 20 August 2019.

<sup>87</sup> Richard Sellers, Director General, Department of Transport, WA Government, correspondence, 17 July 2019, p. 1.

<sup>88</sup> The licence must have been sold after 1 January 2016 and before 2 November 2017.

at providing a reasonable solution to licence holders who had sought to leave the industry in order to prevent further financial loss.

The Western Australian Government has now concluded the buyback, and reported a total cost of \$118.92 million. The scheme was funded through an on-demand passenger transport levy, which is discussed further in the levy section at 2.5 below.

## 2.3 Industry assistance payments

The following table sets out different payments made across Australian jurisdictions to assist taxi drivers with industry transition. Tasmania, the Northern Territory and the Australian Capital Territory are not included in this table as they have not offered industry payments. As stated at the beginning of this Chapter, it is difficult to make direct comparisons between jurisdictions because of the different industry sizes. For example, prior to the reforms the size of Victoria's taxi industry was approximately 5,700 taxis, whereas Western Australia's numbered approximately 2,500.

**Table 2.1** Payments for taxi and hire car licence holders across Australian jurisdictions

	Vic	NSW	QLD	SA	WA
<b>Transition payments</b>	<i>Transition Assistance Payments</i>  Urban & metro: \$100,000 first licence, \$50,000 second, third & fourth licences  Regional: \$50,000 first licence, \$25,000 second, third & fourth licences  *Other values for country, fixed term & hire car licences	<i>Transitional Assistance Payments</i>  \$20,000 per licence, max two licences per licence holder	<i>Transitional Assistance Payments</i>  \$20,000 per licence, max two licences per licence holder	<i>Taxi Industry Assistant Packages</i>  Metropolitan taxi licences: \$30,000  Leased licences: \$50/week for remainder of lease (max 11 months)	<i>Transition Adjustment Assistance Grant</i>  Metro licences: \$20,000  <i>Additional transitional funding</i>  Country licences: \$10,000
<b>Buybacks</b>	None (all licences revoked)	<i>Hire car licence buyback</i>  Between \$80,000 and \$232,860 for metro licences (or hire car plates remain valid)	None (licences still valid)	None (licences still valid)	<i>Buyback</i>  Between \$100,000 (minimum) and \$250,255 for perpetual metro licences (or licences transitioned)

	Vic	NSW	QLD	SA	WA
<b>Hardship payments</b>	<i>Fairness Fund</i> Payments based on individual assessments	<i>Additional Assistance Payment Scheme</i>	<i>Industry Hardship Assistance</i> \$9,000 per taxi licence, \$4,500 per limousine licence Additional fee waivers for taxi drivers	N/A	<i>Hardship Fund</i> Payments based on individual assessments, average payment \$67,287
<b>Total cost to government</b>	<b>\$386.21 million</b> <i>Transition Assistance Payments:</i> \$329.46 million <i>Fairness Fund:</i> \$56.75 million	<b>\$244.3 million</b> <i>Transition Assistance Payments:</i> \$94 million <i>Buyback:</i> \$8.3 million <i>Additional Assistance Payment Scheme:</i> \$142 million allocated	<b>\$100 million</b> Consisting of transitional payments, hardship payments, fee waivers and business advisory services	<b>\$32.09 million</b> \$30.99 million to licence owners; \$1.1 million to lessees	<b>\$147.76 million</b> <i>Transition payments:</i> \$19.74 million <i>Buyback:</i> \$118.92 million <i>Hardship Fund:</i> \$5.7 million <i>Additional funding:</i> \$3.4 million

Source: Legislative Council Economy and Infrastructure Committee.

As displayed in Table 2.1, Victoria's industry assistance payments have borne a much greater total cost to government than that of any other jurisdiction. This greater total cost partly reflects the fact that Victoria has a larger commercial passenger vehicle industry than most other jurisdictions.<sup>89</sup>

### 2.3.1 Transition allowances

New South Wales, Queensland and Western Australia all provided transition payments to licence holders of \$20,000 per licence. There are certain differences between the schemes. The New South Wales Government limited the number of payments to two standard licences per licence holder (a maximum \$40,000 payment).<sup>90</sup> As discussed at section 2.2.1, it also bought back 99 hire car licences from eligible licence holders in order to introduce a new, standardised licence for both hire cars and rideshare services.

The Queensland Government also limited payments to two standard taxi licences per licence holder.<sup>91</sup> Its Industry Adjustment Assistance Package provided a temporary fee waiver to taxi drivers for licence renewal fees and the Taxi Industry Security Levy. These fee waivers equated approximately \$1.8 million in 2018–19.<sup>92</sup>

<sup>89</sup> New South Wales has the largest industry in Australia.

<sup>90</sup> *Point to Point Transport (Taxis and Hire Vehicles) (Industry Adjustment) Regulation 2016* (NSW) sch 1 item 5.

<sup>91</sup> *Taxi and Limousine Industry Assistance Scheme Regulation 2016* (Qld) s 8.

<sup>92</sup> Queensland Government Department of Transport and Main Roads, *Taxi and limousine industry assistance*, 2019, <<https://www.tmr.qld.gov.au/business-industry/Taxi-and-limousine/Queenslands-Personalised-Transport-Horizon/Personalised-transport-assistance-package>> accessed 23 August 2019.

Western Australia's Transition Assistance Package was implemented prior to the buyback of taxi licences, with all transition payments finalised in 2017–18. The Government also provided a fee waiver program. This applied to annual vehicle and booking service fees for country licence holders, for a period of three years.<sup>93</sup>

In its assistance scheme, the South Australian Government granted \$30,000 per metropolitan licence. It also provided support for lessees through \$50 weekly payments for the duration of the licence lease (up to a maximum of 11 months).<sup>94</sup>

The Australian Capital Territory Government considered whether to provide compensation to holders of perpetual taxi licences as part of its 2017 evaluation of the on-demand transport industry. It last sold perpetual licences in 1995, and subsequently such licences could only be privately traded.

The Committee received correspondence from the Australian Capital Territory Government advising that individuals who had purchased perpetual licences from government up to 1995 would have received a full return on their investment. A commissioned Centre for Independent Economics report found that 43 per cent of existing perpetual licences have not been sold since 1995. The report further found that an individual who purchased a perpetual licence at the average market price in 2005 or earlier would have also achieved a positive return on their investment.<sup>95</sup>

As a result of the 2017 evaluation, the Australian Capital Territory Government decided not to provide any industry assistance to taxi drivers. Media reports stated that a licence buyback as advocated by taxi industry stakeholders had been rejected by the Government.<sup>96</sup>

To date, no transition or hardship payments have been made to Tasmanian taxi or hire car licence holders. The Tasmanian Government advised the Committee that it will make any announcements regarding industry assistance at the time that a new regulatory framework for the industry is announced.<sup>97</sup>

The Northern Territory has similarly not provided any financial assistance to existing licence holders following the introduction of ridesharing.

<sup>93</sup> Sellers, correspondence, pp. 1-2.

<sup>94</sup> Braxton-Smith, correspondence, p. 1.

<sup>95</sup> Policy & Cabinet Division, correspondence, pp. 1-2.

<sup>96</sup> Isaac Nowroozi, 'Canberra taxi drivers despair as Government decision sends plate values plummeting', *ABC News online*, <<https://www.abc.net.au/news/2019-02-02/taxi-drivers-despair-as-government-slashes-investments/10773584>> accessed 20 August 2019.

<sup>97</sup> Evans, correspondence, pp. 1-2.

### 2.3.2 Hardship allowances

Victoria's Fairness Fund followed on from its earlier 2015 Taxi Reform Hardship Fund, which had been established in the wake of significant legislative reform flowing from the Fels Inquiry. The Fairness Fund was aimed at providing support to licence holders who were experiencing significant financial hardship following reform of the commercial passenger vehicle industry. All applications were finalised by mid-2018, and the Victorian Government reported in its submission to this Inquiry that a total of \$56.75 million was paid to 693 applicants.<sup>98</sup> The Fairness Fund is discussed further in Chapter 3 of this report.

Similar funds aimed at providing relief to persons experiencing financial hardship due to changes to the traditional taxi and hire car industry have been established in Queensland, New South Wales and Western Australia.

The New South Wales Government allocated \$142 million to its Additional Assistance Payment Scheme for members of the taxi or passenger hire vehicle industry who met certain hardship criteria.<sup>99</sup> Applicants were required to demonstrate that they had been detrimentally affected by the regulatory change. The scheme focused on taxi licence holders who held a high level of debt associated with their licence or who were dependent on the licence to meet their basic living costs.<sup>100</sup>

Applications were assessed by a panel that made recommendations to the Minister for individual applications and payment amounts. Successful applicants were able to request that they receive their payment in a lump sum or split into three equal instalments over a period of three financial years. The scheme was open between July and December 2018 and received 1,258 applications, with some payments yet to be finalised.<sup>101</sup>

Western Australia's hardship fund also comprised individualised payments made on a case-by-case basis. At closure of the fund, a total of \$5.7 million had been granted to licensees, with an average payment of \$67,287.<sup>102</sup>

The Queensland Government offered hardship assistance of \$9,000 per taxi service licence, and \$4,500 per limousine licence, up to a maximum of 10 licences. Payments were split evenly between owners and operators.<sup>103</sup>

<sup>98</sup> Department of Transport, *Submission 312*, p. 3.

<sup>99</sup> Transport for NSW, *Additional Assistance Payment Scheme*, 2019, <<https://www.transport.nsw.gov.au/projects/point-to-point-industry-assistance/additional-assistance-payment-scheme>> accessed 23 August 2019.

<sup>100</sup> Transport for NSW, *Additional Assistance Payment Scheme - Historical and Background Information*, 2019, <[https://www.transport.nsw.gov.au/projects/point-to-point-industry-assistance/additional-assistance-payment-scheme-legacy#Who\\_was\\_eligible\\_to\\_apply?](https://www.transport.nsw.gov.au/projects/point-to-point-industry-assistance/additional-assistance-payment-scheme-legacy#Who_was_eligible_to_apply?)> accessed 23 August 2019.

<sup>101</sup> Staples, correspondence, p. 2.

<sup>102</sup> Sellers, correspondence, p. 1.

<sup>103</sup> Road Safety and Ports and Minister for Energy Minister for Main Roads, Biofuels and Water Supply, *Taxi and limousine hardship payments released*, media release, Brisbane, 24 April 2017.

## 2.4 Rank and hail market

In Victoria, the commercial passenger vehicle industry has been broadly deregulated, and all drivers are subject to the same accreditation process. However, like in other states, additional conditions and requirements still apply to vehicles that are used for unbooked (rank and hail) services—the traditional taxi market. These requirements include having taxi registration plates, a fare calculation device and security cameras for vehicles operating in metropolitan areas.<sup>104</sup> In addition, unbooked work is subject to the regulation of fares and surcharges by the Essential Services Commission, while booked work (whether a rideshare, taxi or other vehicle) is not.<sup>105</sup>

All Australian jurisdictions continue to grant exclusive rights to the rank and hail market, with differing regulation concerning safety and infrastructure requirements. Some states continue to regulate the number of taxis that can operate in order to protect this market.

There are differing views on the value of rank and hail work. One 2017 report, by a Professor for Economics at the University of New South Wales Business School, claimed that this portion of commercial passenger vehicle trips retains significant economic value. The report also found that the number of trips hailed off the street or from taxi ranks has not declined following ridesharing's entry into the Australian market.<sup>106</sup>

This may be the case for some areas where the number of taxis is capped and there are stricter entry requirements for rideshare services. However, in Victoria the Essential Services Commission reports that the number of licensed taxis in metropolitan areas has almost doubled following deregulation. This is in conjunction with an overall drop in unbooked taxi trips since 2014, despite population increases.<sup>107</sup>

The Committee notes that with touting no longer an offence in Victoria, taxis have lost the benefits of an exclusive rank and hail market (such as not having to continue driving to find customers). Touting is addressed in Chapter 3 of this report.

<sup>104</sup> Commercial Passenger Vehicles Victoria, *Vehicle owners: Register a vehicle to carry commercial passengers*, 2019, <<https://cpv.vic.gov.au/vehicle-owners/register-a-vehicle>> accessed 27 August 2019.

<sup>105</sup> See *Commercial Passenger Vehicle Industry Act 2017* (Vic) div 1A.

<sup>106</sup> Richard Holden, *Compensation in the Australian Taxi Industry: Year in Review*, University of New South Wales website, 20 June 2017, pp. 2-3.

<sup>107</sup> Essential Services Commission, *Unbooked Commercial Passenger Vehicle Fare Review 2018: Final Decision*, Essential Services Commission, Melbourne, 2018, pp. 4-6.

## 2.5 Commercial passenger vehicle levy

Victoria's commercial passenger vehicle levy commenced on 1 July 2018, at \$1 per trip. The proceeds of the levy are intended to fund the Government's financial Assistance package. The State Revenue Office is responsible for administering the levy, collecting monies from booking service providers, companies and drivers. Similar levies are in place in other Australian jurisdictions, with South Australia,<sup>108</sup> New South Wales and the Northern Territory<sup>109</sup> also collecting \$1 per commercial passenger vehicle trip.

Western Australia applies a different model of levy, collecting 10 per cent of every booked commercial passenger vehicle fare up to a maximum of \$10.<sup>110</sup> This scheme commenced in April 2019.

The Northern Territory's scheme does not use its proceeds for financial assistance to aid industry impacts on the local taxi industry. Instead, it is used to offset the decrease in annual licence fees for all commercial passenger vehicles.<sup>111</sup> A portion is also used to fund transport subsidies for persons with disabilities. The decrease in annual licence fees came into effect at the same time as the implementation of the levy, in February 2018.<sup>112</sup>

Each jurisdiction varies around the types of trips that require collection of the levy. Some jurisdictions apply the levy only to trips that take place at least partially in metropolitan regions, with the intention of alleviating the financial impact on rural and regional areas. The South Australian levy applies only to trips that commence in the Adelaide metropolitan area,<sup>113</sup> while Western Australia applies its scheme to trips in Perth and the nearby Mandurah and Murray local government districts.<sup>114</sup> The New South Wales model also establishes an exemption for trips that either start or end in a remote area.<sup>115</sup>

Victoria's scheme does not provide any provisions or exemptions for country areas. However, the Department of Transport's website states that a rebate scheme will be initiated if it is found that the levy has disproportionately affected those communities.<sup>116</sup>

<sup>108</sup> Point to Point Transport Service Transaction Levy, as imposed by the *Passenger Transport Act 1994* (SA) s 62A; sch 2 item 2.

<sup>109</sup> *Ridesharing Regulations 2017* (NT).

<sup>110</sup> *Transport (Road Passenger Services) Act 2018* (WA) s 245.

<sup>111</sup> Planning and Logistics Department of Infrastructure, *Per Trip Levy on all Point-to-Point Transport Services: Commercial Passenger Vehicles Information Bulletin - CPV25*, NT Government, Darwin, 2017, p. 1.

<sup>112</sup> Department of Infrastructure, *New Licence Fees*.

<sup>113</sup> Transport and Infrastructure Department of Planning, *Point to Point Transport Service Transaction Levy FAQs: Information for passengers*, Government of South Australia, 2017, p. 1.

<sup>114</sup> Department of Transport, *Levy Area - On-demand Passenger Transport Levy*, WA Government, Perth, 8 November 2018.

<sup>115</sup> NSW Government Point to Point Transport Commissioner, *The Passenger Service Levy*, <<https://www.pointtopoint.nsw.gov.au/passenger-service-levy>> accessed 22 August 2019.

<sup>116</sup> Victorian Government Department of Transport, *Taxi and hire car industry reforms*, 2019, <<https://transport.vic.gov.au/getting-around/taxis-hire-car-and-ridesharing/industry-reforms>> accessed 22 August 2019.

Like South Australia and the Northern Territory, Victoria's scheme contains no sunset provisions and an expected end date for collection of the levy has not yet been announced. In contrast, the New South Wales levy is anticipated to continue for five years<sup>117</sup> and the Western Australian Government has announced that it expects its levy to continue for approximately four years, to cover the total cost of its taxi licence buyback.<sup>118</sup>

## 2.6 Other forms of assistance

During its reform implementation period, the Victorian Government established a telephone support line that provided advice to members of the commercial passenger vehicle industry on where to access financial advice or wellbeing support. It did not directly provide these services.

In the aftermath of reforms to its taxi industry, the Australian Capital Territory Government provided counselling services to affected taxi drivers and operators.<sup>119</sup>

The Queensland Government has recently established a scheme that will provide co-contribution grants to affected licence holders for business development and sustainability. The 'business improvement scheme' is targeted at market development, business sustainability, and strengthening digital capabilities.<sup>120</sup>

## 2.7 International developments

This report deals primarily with the impact of the 2017 industry reforms in Victoria and does not address broader issues relating to ridesharing, such as driver remuneration and conditions. However, a number of international jurisdictions have introduced significant reforms or different operation models for rideshare services in recent years. These may have an impact on the commercial passenger vehicle industry in Australia. This section briefly outlines the experience of three international jurisdictions—New York City, California and London.

### 2.7.1 New York City

In February 2019, the New York City Taxi and Limousine Commission introduced a form of 'minimum wage' for rideshare drivers. This operates by way of a formula set out in the Commission's Driver Pay Rules that calculates a minimum per-trip payment amount for drivers. This includes taking into consideration factors of time, distance and

<sup>117</sup> Point to Point Transport Commissioner, *The Passenger Service Levy*.

<sup>118</sup> WA Government Department of Transport, *On-demand passenger transport levy*, 2019, <<https://www.transport.wa.gov.au/On-demandTransport/on-demand-passenger-transport-levy.asp>> accessed 19 August 2019.

<sup>119</sup> Policy & Cabinet Division, correspondence, p. 2.

<sup>120</sup> *Rural and Regional Adjustment (Taxi and Limousine Business Support Grants Scheme) Amendment Regulation 2019* (Qld).

utilisation (how often a driver is on a job).<sup>121</sup> Payment of this minimum amount applies to 'high-volume' rideshare companies, which includes Uber and Lyft.

According to the Rules, there are now over 80,000 rideshare drivers in New York City with the majority working for high-volume companies.<sup>122</sup> Ongoing concerns around low driver earnings led to a report commissioned by the Taxi and Limousine Commission into the economic features of ridesharing in New York. This report found that the business model employed by the largest rideshare companies required drivers to take on significant investment and risk, and that driver earnings continued to decline.<sup>123</sup>

The New York Taxi and Limousine Commission provided preliminary results on the operation of the new minimum payment amount in June 2019. In the nearly four-month period since its introduction, drivers earned an additional \$172 million across 71 million trips. In addition, the percentage of drivers earning the minimum pay standard of \$17.22 per hour increased from 4 per cent prior to introduction of the minimum standard to 100 per cent in the period after its introduction.<sup>124</sup>

## 2.7.2 California

California's legislature passed changes to its labour laws on 6 September 2019 that raised standards rideshare operators must meet to classify drivers registered on their platforms as contractors rather than employees.<sup>125</sup> This followed a case in the Californian Supreme Court that embraced a presumption of workers being employees rather than contractors, with the onus on the employer to prove otherwise.<sup>126</sup>

According to media statements, Uber has announced that it intends for its workers to remain classified as independent contractors and that it can meet the new standards.<sup>127</sup>

## 2.7.3 London

In September 2017, Transport for London refused an application by Uber to renew its licence to operate in London on the basis that the company was 'not fit and proper' to hold the licence.<sup>128</sup> This decision was based on what Transport for London considered

<sup>121</sup> *Driver Pay Rules December 2018* (NYC).

<sup>122</sup> *Ibid.*, p. 2.

<sup>123</sup> James A. Parrott and Michael Reich, *An Earnings Standard for New York City's App-based Drivers: Economic Analysis and Policy Assessment: Report for the New York City Taxi and Limousine Commission*, Center for New York City Affairs, NYC, July 2018, p. 5.

<sup>124</sup> City of New York Press Office, 'Mayor de Blasio Announces Extending FHV Caps to Protect Hardworking Drivers, Increase Their Pay & Reduce Cruising by Empty Cars in Manhattan', <<https://www1.nyc.gov/office-of-the-mayor/news/301-19/mayor-de-blasio-extending-fhv-caps-protect-hardworking-drivers-increase-their-pay-#/0>> accessed 25 September 2019.

<sup>125</sup> *AB-5 Worker status: employees and independent contractors* (CA, USA).

<sup>126</sup> *Dynamex Operations West Inc. v Superior Court of Los Angeles* (2018) 4 Cal.5th 903.

<sup>127</sup> Carolyn Said, 'Uber: We'll fight in court to keep drivers as independent contractors', *San Francisco Chronicle*, 11 September 2019, <<https://www.sfchronicle.com/business/article/Uber-We-ll-fight-in-court-to-keep-drivers-as-14432241.php>> accessed 25 September 2019.

<sup>128</sup> Transport for London, 'Licensing decision on Uber London Limited', <<https://tfl.gov.uk/info-for/media/press-releases/2017/september/licensing-decision-on-uber-london-limited>> accessed 25 September 2019.

to be Uber's 'lack of corporate responsibility'. It described this as Uber's approaches to reporting serious criminal offences and obtaining medical certificates and disclosure checks, as well as its touting of law enforcement avoidance software.<sup>129</sup>

Upon appeal of the decision, Uber was granted a provisional licence for 15 months in June 2018,<sup>130</sup> which was extended for a further two months in September 2019. The provisional licence contained a number of terms that Uber was required to comply with, including that it provide Transport for London with four weeks' notice of any changes to its operating model and mandatory reporting of criminal complaints to police.<sup>131</sup> According to media reports, the most recent renewal will include further conditions aimed at ensuring passenger safety, including in relation to insurance and checking driver documentation.<sup>132</sup>

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129 Ibid.

130 *Uber London Limited v Transport for London* (2018) Westminster Magistrates Court.

131 Transport for London, *Uber London Limited v Transport for London list of agreed conditions*, London, June 2018.

132 Gwyn Topham, 'Uber granted two-month extension to London licence', *The Guardian*, 24 September 2019, <<https://www.theguardian.com/technology/2019/sep/24/uber-london-licence-transport-for-london>> accessed 25 September 2019.

# 3 Impacts of the reforms

## 3.1 Introduction

The Victorian Government's objectives in reforming the commercial passenger vehicle industry, as stated under the *Commercial Passenger Vehicle Industry Act 2017*, were to promote competition in the industry and to increase public confidence and safety. However, the submitters to this Inquiry, who were primarily former taxi and hire car licence holders, described the negative impact the reforms have had on their businesses and livelihood.

Most of these stakeholders criticised the 'fairness' of compensation provided by the Government to taxi and hire car licence holders. Many of these stakeholders have outstanding debt, lost what they considered to be their self-funded superannuation scheme and incurred tax debts as a result of transition payments they received.

## 3.2 Impact on former licence holders

The Committee heard from hundreds of licence holders who had experienced significant financial, emotional and psychological difficulties as a result of the reforms. The revocation of perpetual licences had a devastating impact on those who had relied on them to earn a living, to repay loans and other debts, and to act as a form of superannuation. One licence owner stated:

We worked hard, always followed all the rules and regulations, but we now have been told that it wasn't enough. We invested so much in the industry and this has lead us to losing everything that we worked for. What more could we have done?<sup>133</sup>

Despite establishment of the Fairness Fund to provide assistance for former licence holders facing financial hardship as a result of the revocation of their licences, numerous industry members reported having significant and debilitating debt. A number stated that they had been forced to sell their homes or other significant property. This was sometimes in spite of the receipt of Fairness Fund payments, which were subject to tax liabilities or used to pay off portions of existing debt. One submitter stated: 'My fear is month by month we are edging towards losing our home, at the very least needing to sell to escape the mountain of debt piling.'<sup>134</sup>

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<sup>133</sup> Name withheld, *Submission 103*, p. 3.

<sup>134</sup> Harry Pandaleon, *Submission 252*, pp. 1-2.

WEstjustice, a community legal centre, received \$56,000 from the Victorian Government to undertake debt negotiation for a small number of particularly vulnerable clients. This was in addition to its primary role of assistance with applications to the Fairness Fund. It also provided a 'triage service'<sup>135</sup> and referred clients to financial counselling.<sup>136</sup>

Mr Denis Nelthorpe, Chief Executive Officer of WEstjustice, described the widespread financial hardship that its clients faced:

Of the people we saw that we assisted all the way through, I would say 120 out of 155 were in reasonably serious circumstances. I would imagine there must have been at least double or treble that number who were in hardship and who for some reason did not see us. People had their own reasons as to why they did or did not see us. I also think that if at the end of that 155 there were at least 50 in desperate financial straits who saw us, I would estimate there must have been at least another 100 who we did not see who were in that situation. So, for instance, we saw some people—and one family comes to mind in particular—where they saw us after the bank had pressured them into selling the house. There is no doubt in my mind that had they seen us before they sold the house, the house would never have been sold.<sup>137</sup>

Mr Nelthorpe also spoke about the depth of financial loss, stating, 'We certainly had a significant number of clients who essentially lost everything'.<sup>138</sup>

The deregulation of the commercial passenger vehicle industry in Victoria placed further strain on operators and drivers, who now find it difficult to earn enough to repay debts or cover everyday living costs. This is compounded by the loss of income due to the increase in the number of commercial passenger vehicles on the roads:

With two very young kids I am also getting close to a point of desperation. [I'm] out of savings, nothing to redraw out of my super, a debt of around 200k with outstanding bills of 16k. I am working 7 days a week 4 am until late at night just to survive. Every month my income is getting lower and lower.

Today I went to work at 5 am came home in midday with 0 dollars income. I gave up.<sup>139</sup>

These pressures are further exacerbated by many of the former licence holders being at or nearing retirement age. These people had viewed their licence as a form of superannuation due to its former inherent value:

With only a couple of years left until retirement I was planning to retire and be self-funded. I had worked hard all my life to enjoy this time of retirement but the

<sup>135</sup> A 'filtering' function that helps advises clients of a more appropriate channel of legal aid or not to proceed if they have meritless claims or very poor prospects of success.

<sup>136</sup> WEstjustice, *Submission 70*, p. 1.

<sup>137</sup> Mr Denis Nelthorpe, Chief Executive Officer, WEjustice, Public hearing, Melbourne, 31 July 2019, *Transcript of evidence*, p. 23.

<sup>138</sup> *Ibid.*, p. 21.

<sup>139</sup> Name withheld, *Submission 119*, p. 5.

government cancelled my taxi licences which was my only superannuation and instead left me with a large loan forcing me to continue work well into my retirement years.<sup>140</sup>

The majority of submissions from licence holders spoke of the significant impacts on their mental and psychological health and wellbeing. Numerous submissions spoke about the stress that industry members and their families were placed under, that permeated into all aspects of their lives:

There have been deaths, marriage break ups, homes closed, suicides, the list goes on. I really don't care which way the industry goes from here, all I am really asking for is closure for myself and many more others like me that have been dealt with unjustly.<sup>141</sup>

Another submission stated:

My husband and I often spoke of suicide, particularly my husband. He would say things like "if I died you would get my life insurance payment and you would be alright, but I have to do it before we can't pay the premiums anymore". I was devastated, and feared that he would go out one day and not come back.<sup>142</sup>

Some submissions spoke of people who had committed suicide due to the devastating impacts of the reforms. Mr Nelthorpe spoke about the serious emotional trauma experienced by his clients:

And one of our clients committed suicide two days after seeing us, so we did see the very worst side of this.

... And I guess maybe that is another sort of lesson for the future—that whatever the justification for reforms, particularly where you are talking about small business or very ordinary people, the notion that there should be services, social workers and psychologists to assist people with the emotional trauma that reforms cause should be part of the package.<sup>143</sup>

Similarly, the Victorian Taxi Families group provided the following story of one of its members: '... a mother of 3 children, threw herself in front of a train committing suicide, leaving her children motherless, as the bank was selling their family home to repay the debt'.<sup>144</sup>

The Committee acknowledges the significant, diverse and debilitating impacts the commercial passenger vehicle reforms have had on many taxi licence holders and operators. Major industry transition can be a difficult time for stakeholders and cause major hardship and stress. The Committee believes it is imperative that those affected are provided the support they need during these difficult times. Although the Victorian Government did provide some support for the industry many people are still suffering and there is an ongoing need for assistance.

<sup>140</sup> Ibid., p. 1.

<sup>141</sup> John Kaboukos, *Submission 97*, p. 1.

<sup>142</sup> Kevin & Leanne McKenzie, *Submission 183*, p. 3.

<sup>143</sup> Nelthorpe, *Transcript of evidence*, p. 24; *ibid.*, p. 24.

<sup>144</sup> Victorian Taxi Families, *Submission 127*, p. 3.

**RECOMMENDATION 1:** That the Victorian Government provide counselling services for stakeholders affected by the commercial passenger vehicle industry reforms.

### 3.3 Transitional and hardship funding

As discussed in Chapter 1, the Government provided two streams of funding to affected taxi and hire car licence holders:

- *ex gratia* industry transition payments, paid per licence and capped at a maximum of four in total
- the Fairness Fund, providing hardship payments to applicants.

Many of the submissions were critical of the funding streams, particularly:

- the inadequacy of payments provided
- onerous application processes
- a perception that the processes were 'unfair'.

#### 3.3.1 Transitional funding

The Government allocated \$332 million in transitional assistance payments for affected licence holders. The funding process commenced in October 2017 and the payment amount varied depending on the type of licence. Commercial Passenger Vehicles Victoria was responsible for administering the transitional assistance payments.

Transitional funding payments were made to 4,139 licence holders and totalled \$329,461,250.<sup>145</sup> This is consistent with the \$332 million allocated and was based on modelling done by the Department of Transport in assessing the total costs of the transitional funding.

In response to a request by the Committee, Commercial Passenger Vehicles Victoria provided documents on modelling for the total cost of the transitional payments under three scenarios. These are summarised in Appendix 2 of this report.

A major criticism from submitters was the perception that the payments provided under transition funding were inadequate. They were also critical of the cap on payments for only four licences.

According to documents provided by Commercial Passenger Vehicles Victoria, taxi licence values peaked at around \$500,000 in 2010–11 through privately-traded sales, and at April 2016 were sold at an average of approximately \$175,000.<sup>146</sup>

<sup>145</sup> Commercial Passenger Vehicles Victoria, *Submission 311*, p. 18.

<sup>146</sup> Paul Younis, Secretary, Department of Transport, correspondence, 21 August 2019, pp. 66-85.

Many stakeholders considered they should have received compensation in line with compulsorily acquired property. This is discussed further in Section 3.3.5 below.

In addition, some stakeholders highlighted that they had many more than four taxi licences and had lost a significant asset value due to the cap. However, data provided to the previous inquiry into the Commercial Passenger Vehicle Industry Bill 2017 indicated that 98 per cent of licence holders held four or less taxi licences.<sup>147</sup>

Similarly, some stakeholders believed they had been penalised for ‘doing the right thing’ and having licences registered under a single name rather than split between family members or business partners. As a result, they received less in total transitional payments.

Mr Mark Shehata, Operations Manager of Exclusive Cab Management, spoke about the disparity at a public hearing:

Let us say a husband and wife had three licences—one in their superannuation fund, one in the wife’s name and one in the husband’s name. They would receive \$100 000 for the superannuation fund licence, \$100 000 for the wife’s licence and \$100 000 for the husband’s licence, therefore they would receive \$300 000. But they own one-seventh of the number of licences my family do. Now, how can anyone think that that situation is fair?<sup>148</sup>

The Commercial Passenger Vehicle Association of Australia (CPVAA) made the same point in its submission. It stated:

It should be highlighted that the payments were made based on entity ownership not per individual beneficiary. To illustrate what this means -

- An individual with 4 taxi licences in 4 separate entities received \$400,000 (company, super, trust, individual)
- An individual with 4 taxi licences under one name received \$250,000
- A husband and wife owning 2 taxi licences jointly received \$150,000
- A husband and wife owning one each singly received \$200,000
- A family trust with 6 beneficiaries owning 18 licences received \$250,000
- A husband and wife with 18 licences in 5 separate entities received \$900,000.<sup>149</sup>

**RECOMMENDATION 2:** That the Victorian Government consider reviewing the transitional funding package and how it was structured, in particular in relation to the difference between entities and individuals.

<sup>147</sup> Parliament of Victoria, Economy and Infrastructure Committee, *Inquiry into the Commercial Passenger Vehicle Industry Bill 2017*, June 2017, p. 12.

<sup>148</sup> Mr Mark Shehata, Public hearing, Melbourne, 19 June 2019, *Transcript of evidence*, p. 2.

<sup>149</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, p. 12.

### 3.3.2 Licences as property

Many Inquiry stakeholders referred to a High Court ruling in *Commissioner of Taxation v Murry* [1998]. The case examined whether a taxi licence was the source of ‘goodwill’ in a transaction for the purpose of receiving a discount for capital gains tax.

In the majority ruling, the Court found:

A taxi licence is a valuable item of property because it has economic potential. It allows its holder to conduct a profitable business and it may be sold or leased for reward to a third party. But neither inherently nor when used to authorise the conduct of a taxi business does it constitute or contain goodwill. A licence is a pre-requisite to the conduct of many professions, trades, businesses and callings. But it is not a source of the goodwill of a business simply because it is a pre-requisite of a business or calling. Nor is the situation different when only a limited number of licences are issued for a particular industry.<sup>150</sup>

The CPVAA stated:

A taxi licence had [its] own market for trade, it held capital value, it returned rental or commercial income and it held financial promise. Entrenched in the lives of those who owned them, a perpetual taxi licence was relied upon in every way any other income bearing property would be considered.<sup>151</sup>

It further noted:

- taxi plates are considered as assets under Centrelink income tax rules
- financial institutions held licences as collateral for loans
- the Australian Prudential Regulation Authority allowed licences to be included in superannuation funds because they were income-bearing assets
- the Australian Tax Office recognised licences as property and applied capital gains tax to each sale.<sup>152</sup>

At a public hearing, representatives from the Department of Transport discussed the High Court ruling. Ms Megan Bourke-O’Neil, Deputy Secretary, Policy and Innovation considered the ruling ‘does not have relevance to the Victorian licensing provisions’, as it related to a Queensland licence.<sup>153</sup> She further explained:

Our longstanding clause in our previous *Transport (Compliance and Miscellaneous) Act* was very clear and transparent that Government could revoke or alter licences and no compensation would be payable, which in our understanding has never been

<sup>150</sup> *Commissioner of Taxation v Murry* (B19-1997) [1998] HCA 4216 June 1998 at 67.

<sup>151</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, p. 6.

<sup>152</sup> *Ibid.*

<sup>153</sup> Ms Megan Bourke-O’Neil, Deputy Secretary, Policy and Innovation, Department of Transport, Public hearing, Melbourne, 28 August 2019, *Transcript of evidence*, p. 11.

successfully challenged. I make that point just to link it back to the notion of what assistance was provided, that this was at the discretion of Government, not a legal obligation ...<sup>154</sup>

However, the Committee notes that decisions by the High Court have application in all other courts in Australian jurisdictions and that the High Court's view on licences being property was not specific to Queensland. In addition, the principle that taxi licences are property as ruled in *Commissioner of Taxation v Murry* [1998] has been cited in other courts, including Victoria.<sup>155</sup>

The Committee is also aware that taxi licences issued after 1983 were not liable for compensation under s 90 of the *Transport (Compliance and Miscellaneous) Act 1983*. This is contained in Box 3.1 below.

### Box 3.1: Section 90 of the Transport (Compliance and Miscellaneous) Act 1983

#### 90. No compensation payable

- (1) No compensation shall be payable to any person in respect of or as a consequence of any decision or determination made pursuant to this Part—
  - (a) to grant, issue, renew, reject, cancel, suspend or revoke any licence, certificate, permit, consent, assignment or other authority under this Part;
  - (b) to add, alter or vary any condition or term of or attached to any licence, certificate, permit, consent, assignment or other authority under this Part; or
  - (c) to alter the route or area in respect of which any licence has been granted under this Part.
- (2) Without limiting subsection (1), no compensation is payable to any person in respect of, or as a consequence of, a decision of the licensing authority under Division 4—
  - (a) to approve or refuse an application for accreditation; or
  - (b) to impose a condition, restriction or other limitation on an accreditation; or
  - (c) to vary or revoke a condition, restriction or other limitation on an accreditation; or
  - (d) to take disciplinary action; or
  - (e) to serve an improvement notice.<sup>156</sup>

<sup>154</sup> Ibid.

<sup>155</sup> For example, see *Victorian Taxi Families Inc & Anor v Taxi Services Commission* [2018] VSC 594 at 25.

<sup>156</sup> Parliament of Victoria, Economy and Infrastructure Committee, *Inquiry into ride sourcing services*, March 2017. Appendix 1.

The issue of 'property rights' for taxi and hire car licences was examined in the Fels Inquiry. Professor Fels questioned any legal obligation to provide compensation to affected licence holders based on s 90 of the *Transport Compliance and Miscellaneous Act 1983*.<sup>157</sup> He also compared the value of licences to physical assets such as a house, noting that the value of both is tied to scarcity. However, the value of a house is due to the inherent value of the land, which is physically scarce, whilst the scarcity of licences was due to the number issued by the Government.<sup>158</sup>

Accordingly Professor Fels found no legal or economic grounds to compensate licence holders for reforms that diminished the value of licences. However, the Committee notes that Professor Fels' conclusions were based on the reforms recommended in that report. Although the reforms did result in diminished licence values, licence holders still retained ownership of the licences, which held a considerable inherent value. Conversely, the 2017 reforms abolished the licences completely and replaced them with authorisations, and the Government has not limited supply.

The Committee is also aware that taxi licences were traded on the Bendigo Stock Exchange for a number of years. According to the draft Fels Inquiry report, the purpose of trading licences on the Bendigo Stock Exchange was to increase transparency for transferring and assigning licences. However, the report stated the scheme was 'not a success' since licences were merely reported to the exchange rather than traded on it.<sup>159</sup> The practice was discontinued in 2011, however private licence trading continued up until the licences were revoked in the 2017 reforms.

The Committee acknowledges the views of stakeholders on the 'property rights' of licence holders but ultimately considers the matter would require resolution in the courts. As this is beyond the scope of the Parliament's remit, the Committee makes no further comment.

### 3.3.3 Fairness Fund

From 30 November 2016 to 30 April 2017, eligible taxi and hire care licence holders could apply to the Department of Economic Development, Jobs, Transport and Resources for an *ex-gratia* payment (the application form is included as Appendix 3 of this report). The eligibility criteria included:

- having an ownership interest in a licence between 1 January and 23 August 2016
- a lack of current income or loss of a future income stream that significantly affected their household spending capacity
- significant difficulty meeting debt related to licences

<sup>157</sup> The Committee is aware that the licences were revoked using the *Commercial Passenger Vehicle Industry Act 2017* and *Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017*.

<sup>158</sup> Taxi Industry Inquiry, *Customers first: service, safety, choice: Taxi industry inquiry: final report*, report prepared by Professor Allan Fels AO, report for Taxi Services Commission, Taxi Services Commission, Melbourne, 2012, p. 58.

<sup>159</sup> Taxi Industry Inquiry, *Customers first: service, safety, choice: Taxi industry inquiry: draft report*, report prepared by Professor Allan Fels AO, report for Taxi Services Commission, Taxi Services Commission, Melbourne, 2012, p. 203.

- insufficient available funds to meet the financial commitments
- ‘extenuating circumstances’ of financial hardship not covered in the points above.<sup>160</sup>

A total of \$56 million was paid to 693 applicants through the Fairness Fund.<sup>161</sup>

The Victorian Ombudsman initiated a review of the Fairness Fund after receiving 64 complaints on its administration. In the review, the Department acknowledged that it has significantly underestimated the number of applications to the Fund, expecting a minimum of 150 and ultimately receiving 1,247.<sup>162</sup>

The Ombudsman found that the Department:

- failed to resource the scheme sufficiently and meet the reasonable likelihood of demand
- failed to transparently communicate with applicants, including providing reasons for delays.<sup>163</sup>

As stated above, the Committee received evidence from WEstjustice, a legal service organisation that provided clients with assistance in applying to the Fairness Fund. Mr Denis Nelthorpe, Chief Executive Office, was critical of the Department’s decision to consider all applications rather than only those that could be successful:

One decision they made that I thought was probably a mistake was that to some extent they encouraged anyone who wanted to to make an application, even if that application had little or no chance of success. Because we, from the very outset—for those people who we thought on the criteria as we understood them had no chance of success—were saying, ‘Well, look, there’s not a lot of point in making an application if it’s got no chance of success’. When the department and KPMG indicated that they, you know, did not want to discourage anyone, we took the view that we would say, ‘Well, we still don’t think you’ve got any chance of success, but we’ve got some documents that will help you prepare one if you want to put it in in your own right’.<sup>164</sup>

At a public hearing, Ms Bourke-O’Neil from the Department of Transport told the Committee the Department took this approach to allow applicants a full opportunity to establish their eligibility:

... one of the issues the Ombudsman spoke to was there was a long time in the assessment process. One of those factors was that the direction given to the Fairness Fund—to the chair of the Fairness Fund—was to make sure that people had every opportunity to establish their eligibility, so if they could do that by providing more information or more substantiating documentation, that time was given, and that added time to the process.<sup>165</sup>

<sup>160</sup> Victorian Ombudsman, *Investigation into the administration of the Fairness Fund for taxi and hire car licence holders*, Ombudsman Victoria, Melbourne, 2018, p. 7.

<sup>161</sup> Mr Paul Younis, Secretary, Department of Transport, Public hearing, Melbourne, 28 August 2019, *Transcript of evidence*, p. 6.

<sup>162</sup> Victorian Ombudsman, *Investigation into the administration of the Fairness Fund for taxi and hire car licence holders*, p. 27.

<sup>163</sup> *Ibid.*, p. 28.

<sup>164</sup> Nelthorpe, *Transcript of evidence*, p. 20; *ibid.*, p. 20.

<sup>165</sup> Bourke-O’Neil, *Transcript of evidence.*, p. 11.

The Committee acknowledges that the Department's intention was to allow as many Fairness Fund applicants to make their case for hardship funding. However, it is clear that this failed to manage the expectations of many applicants, which contributed to a perception of unfairness in the process.

### 3.3.4 Tax implications of Fairness Fund payments

Licence holders who received payments from the Fairness Fund were liable for a tax debt. In contrast, transition assistance payments were not taxable. The Australian Tax Office's reasoning was based on existing Taxation Ruling *TR 2006/3 Income Tax: government payments to industry to assist entities (including individuals) to continue, commence or cease business*.

**Table 3.1 Australian Tax Office tax implications for commercial passenger vehicle industry payments**

	Is the payment ordinary income?
<b>Transition assistance payments</b>	<p>No. The payments are not ordinary income because the payments are made as consideration for the cancellation of taxi-cab or hire car licences which brings those assets to an end.</p> <p>The payment should be included in the calculation of the capital gain or capital loss that is made by the licence holder on the cancellation of the taxi-cab or hire car licence(s).</p>
<b>Fairness fund payments</b>	<p>Yes. The payments are assessable income because they are designed to provide financial support to licence holders that are experiencing:</p> <ul style="list-style-type: none"> <li>• a lack of current income or the loss of a future income stream that is significantly impacting on household spending capacity</li> <li>• significant difficulty in meeting ongoing debt obligations related to the licence(s) held</li> <li>• a lack of available funds to meet financial commitments.</li> </ul> <p>You can claim a tax deduction for costs incurred for seeking legal or professional tax advice in relation to the taxation of the payment.</p>

Source: Australian Tax Office, 'Fact sheet for Victorian taxi-cab and hire car Transition Assistance payments — tax implications', 2017; Australian Tax Office, 'Fact sheet for Victorian taxi-cab and hire car Fairness Fund Payments — tax implications', 2017.

These issues were previously raised in the Committee's report on the *Inquiry into the Commercial Passenger Vehicle Industry Bill 2017* in the 58th Parliament.<sup>166</sup>

Mr Nelthorpe told the Committee he considered this a 'serious failing' of the administration of the fund:

... what I consider to be a serious failing of the fund, one which we had alerted the Department to at the time of the first small fund, and that was the failure to reach agreement with either Centrelink or the ATO as to how they would deal with those funds. In reality the decision of the ATO did not really become final, as far as I can see, until effectively after the application process had been completed. Now, saying

<sup>166</sup> Parliament of Victoria, Economy and Infrastructure Committee, *Inquiry into the Commercial Passenger Vehicle Industry Bill 2017*, p. 14.

to someone, 'Yes, we're going to give you \$270 000' without saying, 'And the tax department, the tax office, is going to take a third of it' is in my view unhelpful and probably unfair. It created all sorts of problems.<sup>167</sup>

He also spoke of how this affected debts already owed to banks:

We effectively negotiated some arrangements with the banks to pay down the debt but allow the loan account to be reopened if they needed to reborrow the money to pay the tax office, but it is fair to say that the funds were often given on the basis of what someone owed. We would negotiate with the bank but have to say to them, 'Look, there's an almost certain likelihood that you're going to get a bill for anything up to \$80 000 to \$100 000 in 12 or 15 months' time'. And there is a difference between 'You might have a tax liability' and 'You've got a tax assessment'. I cannot help thinking that there would be some justification for reopening the fund to allow for a payment of the tax assessment that came out of it. I should say that the clients I am talking about are often people who have lost everything or, if they are lucky, have retained their own home. If you are 60 to 65 and we have managed to negotiate away your debt but you then get a tax bill for \$80 000 or \$100 000—realistically you are not going to earn that driving a taxi. I do not want to be too unkind but KPMG were no doubt paid a small fortune to help with it, and I would have thought that getting the tax implications of it right was something that ought to have occurred.<sup>168</sup>

At a public hearing, Mr Mark Shehata told the Committee his tax debt as a result of Fairness Fund payments was 'extremely significant'. He also stated, 'It might have been better if they did not pay me at all so I do not have to deal with the tax problem.'<sup>169</sup>

The Committee is concerned that the Victorian Government failed to adequately address the concerns of tax implications of payments made through the Fairness Fund, generally reducing the amount retained by recipients by between 25–45 per cent.<sup>170</sup> This was raised on several occasions during the passage of the reforms, and was highlighted in the report on the *Inquiry into the Commercial Passenger Vehicle Industry Bill 2017*.<sup>171</sup>

Many stakeholders used the Fairness Fund payments to address outstanding debt issues without knowing that they would be required to pay tax on the payments. This resulted in considerable tax burdens to many stakeholders who were already undergoing significant financial stress. This would have been avoided if the Government had structured the payments as being capital in nature. In this way, recipients could have received more money, or the Government could have paid less money to confer the same net dollar benefits.

<sup>167</sup> Nelthorpe, *Transcript of evidence*, p. 21.

<sup>168</sup> *Ibid.*, p. 21.

<sup>169</sup> Shehata, *Transcript of evidence*, p. 3.

<sup>170</sup> Based on marginal tax rates and estimated incomes of licence holders.

<sup>171</sup> Parliament of Victoria, Economy and Infrastructure Committee, *Inquiry into the Commercial Passenger Vehicle Industry Bill 2017*, pp. 12–4.

**RECOMMENDATION 3:** That when designing future compensation payments the Victorian Government take into consideration the taxation outcomes of proposals before they are put into place, to ensure the payments represent maximum value for Victorians. This should include seeking advice from external tax experts and proactively engaging with the Australian Tax Office.

### 3.3.5 Comparison with other buybacks

Many submitters compared the transition funding provided with other licence 'buybacks' conducted by governments. The CPVAA highlighted several buyback precedents, including:

- taxi licence buybacks in the Northern Territory (1990s)
- parcels of groundwater in the Murray-Darling Basin (Federal Government, 2006)
- the Great Barrier Reef Marine Park Structure Adjustment Package (Federal Government, 2004)
- handgun buybacks (2004)
- sunbed buybacks when the commercial solarium industry was outlawed (Victoria, 2015)
- \$27 million compensation for commercial fishing licence holders in Port Phillip Bay (2015).<sup>172</sup>

As discussed in Chapter 2, the number, nature and value of taxi and hire car licences vary significantly between Australian jurisdictions, and so a strict comparison between industry payment schemes is not recommended. However, it can be noted that the Western Australian buyback cost significantly less to the Government than Victoria's transition payments. The total cost at closure of the buyback was \$118.92 million, just over a third of what was paid to licence holders in transition payments by the Victorian Government.

In relation to the New South Wales buyback, this was relatively limited and applied only to hire cars. Payments were made for 150 licences, at a total cost of \$8.3 million. This is, similarly, a small fraction of the \$329.46 million in transitional assistance paid by the Victorian Government.

The Committee notes that although licence buybacks have occurred in different industries in the past, it is difficult to compare these situations to the transitional compensation provided to taxi and hire care licence holders. However, the Committee acknowledges that there are a significant number of former taxi and hire car licence holders who are still experiencing financial hardship as a result of the reforms. In the

<sup>172</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, p. 14.

Committee's view, the Government should continue to provide advice to help these stakeholders through their financial difficulties, either directly or through a suitably experienced third party.

**RECOMMENDATION 4:** That the Victorian Government provide financial advice on managing debt to former licence holders who are experiencing significant financial hardship as a result of the reforms.

## 3.4 Increased supply due to removal of barriers to entry

There was a significant increase in the number of commercial passenger vehicle drivers and registered vehicles in Victoria following the recent reforms. Commercial Passenger Vehicles Victoria and the Department of Transport provided data on drivers and vehicles as follows:

	October 2017	May 2019	Change	Increase (%)
Accredited drivers	62,079	96,362	34,286	55
Registered vehicles	8,460	66,894	58,434	691
Booking service providers	129	201	72	56

Source: Commercial Passenger Vehicles Victoria, *Submission 311*, p. 24; Department of Transport, *Submission 312*, p. 4.

### 3.4.1 Competition

The reforms increased competition in the CPV market by lowering barriers to entry through a significantly lower application cost for booked and unbooked services.

In its submission the Department of Transport stated that average wait times for conventional commercial passenger vehicles have fallen by around 1 minute since introduction of the reforms. In addition, the average daytime wait for wheelchair accessible commercial passenger vehicles has decreased.

At a public hearing, Mr Aaron de Rozario, Chief Executive Officer of Commercial Passenger Vehicles Victoria, believed this reflected the 'changing nature of the industry'. He also noted that the reforms had allowed many more 'casual and occasional vehicles' to enter the industry.<sup>173</sup>

Analysis of trip data by the Essential Services Commission also indicated that the number of trips in unbooked commercial passenger vehicles declined considerably between 2014 and 2016 after rideshare operators entered the market.<sup>174</sup>

<sup>173</sup> Mr Aaron de Rozario, Chief Executive Officer, Commercial Passenger Vehicles Victoria, Public hearing, Melbourne, 28 August 2019, *Transcript of evidence*, p. 9.

<sup>174</sup> Essential Services Commission, *Unbooked commercial passenger vehicle fare review 2018: Final decision*, Essential Services Commission, 2018, p. 4.

Many submissions to the Inquiry noted that the increased competition has had a negative impact on driver income. In its submission, the CPVAA described some drivers reporting income reduction of up to 50 per cent compared to before the reforms.<sup>175</sup> This has compounded the financial stress caused by a reduction in plate value and the ability to lease plates under a bailment arrangement.

The Association did concede that the introduction of rideshare had provided benefits to consumers, such as reduced fares, shorter waiting times and an overall improvement in the ‘customer experience’.<sup>176</sup> However, it believed the increased competition had caused an ‘irresponsible flood of supply in the market to unsustainable levels, while patronage remains comparatively unchanged’.<sup>177</sup> It stated reforms had caused:

... a significant cost to the worker and to the demands on our road system.

There is a moral and social argument for a better balance between the desires of the consumer, those people who service them and the community at large.<sup>178</sup>

The Victorian Trades Hall Council stated that the reforms had not addressed the ‘substandard’ pay and conditions for drivers, particularly in rideshare.<sup>179</sup> Similarly, the Transport Workers Union expressed concern over the impact of increased supply on the earning capacity of drivers.<sup>180</sup>

The Committee notes that the supply of commercial passenger vehicles and drivers has increased considerably as a direct result of the reforms. This has led to a market saturation of vehicles and drivers, which has resulted in lower income for drivers in booked and unbooked vehicles. Such a sharp increase in supply is to be expected after significant removals of barriers to entry. Accordingly, it is too early to comment on these industry trends as the number of commercial passenger vehicles may ‘naturally’ drop due to supply exceeding demand.

Regardless, the Committee believes the Victorian Government should develop a policy position on the commercial passenger vehicle industry, including rideshare services. It is not clear that the current benefits to the consumer provided by the reforms—such as waiting times reduced by one minute—is a fair price for stakeholders in the commercial passenger vehicle industry to pay through lower wages and uncertainty. The Government’s policy, while maintaining its commitment to the consumer, should provide clarity to drivers in regards to working conditions and certainty for commercial passenger vehicle providers in planning for the future.

<sup>175</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, p. 26.

<sup>176</sup> *Ibid.*, p. 37.

<sup>177</sup> *Ibid.*, p. 26.

<sup>178</sup> *Ibid.*, p. 27.

<sup>179</sup> Victorian Trades Hall Council, *Submission 244*, p. 1.

<sup>180</sup> Transport Workers Union, *Submission 239*, p. 5.

**RECOMMENDATION 5:** That the Victorian Government develop a policy position on the commercial passenger vehicle industry that clarifies its stance on:

- long-term employment conditions
- driver standards
- supply of vehicles
- fares and pricing.

### 3.4.2 Congestion

Many inquiry stakeholders claimed that the increased number of commercial passenger vehicles has led to congestion in central Melbourne. The Committee did not receive further data outside of anecdotal claims.

According to the Department of Transport, over 60 million total CPV trips were taken in 2018–19, an increase of 131 per cent since 2015–16.<sup>181</sup>

In its submission, the CPVAA described the impact of deregulation on congestion:

The reduction in wait times as a result of deregulation is a positive outcome for the consumer. However, this must be considered on balance with the uncontrolled influx of commercial vehicles contributing heavily to congestion in our cities. This has led to implications surrounding parking availability, particularly in the CBD area where CPV drivers are using any curb-side space as a rank to wait for their next job.

For all the increased numbers of taxis operating in the industry there has been not a single additional rank created for waiting vehicles. Many of the ranks are full to overflowing and infringement officers aggressively issue fines forcing drivers to keep moving and circling, contributing to the congestion on our roads. Each fine can cost a CPV driver two days in wages.<sup>182</sup>

It believed this has contributed to congestion by effectively forcing drivers to keep moving and circling when searching for a fare.<sup>183</sup>

The CPVAA believed that an annual licence fee<sup>184</sup> would help reduce congestion by indirectly regulating the number commercial passenger vehicles.<sup>185</sup>

In contrast, the Royal Automobile Club of Victoria (RACV) recommended a review of Road Rule 182, which prohibits all non-taxi vehicles from stopping in taxi zones.

<sup>181</sup> Department of Transport, *Presentation to Committee at public hearing*, supplementary evidence received 28 August 2019, p. 8.

<sup>182</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, pp. 37–8.

<sup>183</sup> *Ibid.*

<sup>184</sup> The Commercial Passenger Vehicle Association of Australia proposed an annual fee of \$2,500.

<sup>185</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, p. 20.

It supported allowing all commercial passenger vehicles to use the zones, allowing them to stop and wait for fares rather than driving around for another fare.<sup>186</sup>

In the Committee's view, collecting trip data would allow the Government to make informed decisions about potential congestion issues arising from commercial passenger vehicles.

**RECOMMENDATION 6:** That the Victorian Government require booking service providers to disclose their trip data and provide live data on the number of vehicles logged into their systems. This information would be used by the Department of Transport in understanding congestion problems in central Melbourne.

### 3.5 Touting

'Touting' refers to soliciting business by displaying advertising material or directly approaching a person. This includes any person, regardless of whether they are a registered driver or whether the vehicle is a registered commercial passenger vehicle.

Previously, touting was an offence under s 158A of the *Transport (Compliance and Miscellaneous) Act 1983*. This included touting in prescribed areas such as Melbourne Airport and Crown Casino and also in non-specified places. A person was not guilty of a touting offence if they were compliant with commercial passenger vehicle licencing conditions and regulations.

The offence was repealed by the *Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017*. No equivalent offence appears in legislation, including the *Commercial Passenger Vehicle Industry Act 2017*. As a result, officers from Victoria Police or Commercial Passenger Vehicles Victoria are unable to issue infringements for touting.

Melbourne Airport gave evidence to the Committee on the impact of the repeal of touting as an offence. At a public hearing, Ms Lorie Argus, Chief of Parking and Ground Access, explained the previous approach to touting enforcement:

Touting previously was managed through the airport by a joint approach for the Melbourne Airport staff as well as the Victorian police, the AFP and the Taxi Services Commission, known now as Commercial Passenger Vehicles Victoria. Victoria Police and the Taxi Services Commission were able to issue infringements under section 158A, and operations were often supported by Melbourne Airport staff and AFP officers. Anti-touting operations were run regularly, every few months, and often involved plain-clothes Victoria Police officers or Taxi Services Commission officers. On-the-spot infringements were then issued to drivers who had touted for services.<sup>187</sup>

<sup>186</sup> RACV, *Submission 224*, p. 3.

<sup>187</sup> Lorie Argus, Chief of Parking and Ground Access, Melbourne Airport, Public hearing, Melbourne, 31 July 2019, *Transcript of evidence*, p. 14.

In its submission, Melbourne Airport noted results of a survey conducted over a week in March 2019 where up to 50 touting incidents occurred at the Airport in 30 minutes. It also stated that airport passengers had felt harassed and unsafe when approached by touting drivers.<sup>188</sup>

The Committee was interested in why touting was not an offence under the *Commercial Passenger Vehicle Act 2017*. Mr Aaron de Rozario, Chief Executive Officer of Commercial Passenger Vehicles Victoria, explained the offence as previously legislated was difficult to enforce:

The previous offence that existed under the *Transport (Compliance and Miscellaneous) Act* was not a very useful offence from the purpose of practical enforcement. So under that offence we had to demonstrate that there was an intended exchange of activity there, and for that to happen we had to do that as a covert operation where we became the witness effectively. Those kinds of covert operations in a limited geographical space such as Melbourne Airport have a very short lifespan. So you might, if you were lucky, get one before everybody is aware that you are operating in that kind of manner and those operations come to an end, or you are reliant on a passenger to actually want to make a statement, because again a passenger—if you are going to infringe or prosecute somebody, you need to be able to submit some evidence. So you were dependent on a passenger wanting to take the time and effort to make a statement, so those laws did not work particularly effectively in that regard. We have certainly thought about what a different law might look like, but what happens in that space would be a decision for Government.<sup>189</sup>

The Committee believes that public safety would be best served by again making touting an offence. The Government should also give consideration to the enforcement issues raised by the regulator to ensure the legislation is fit for purpose.

**RECOMMENDATION 7:** That the Victorian Government amend the *Commercial Passenger Vehicle Industry Act 2017* to reintroduce an offence for touting across Victoria.

### 3.6 Commercial passenger vehicle industry levy

A \$1 levy per trip was introduced in the reforms to fund the transitional payments and the Fairness Fund. The levy came into effect on 1 July 2018 and is liable for:

- a booked service, on the booking service provider
- an unbooked service facilitated by an affiliated service such as a taxi company, the trip provider (the driver) and the service provider jointly
- other unbooked services, the trip provider.<sup>190</sup>

<sup>188</sup> Melbourne Airport, *Submission 257*, p. 1.

<sup>189</sup> Rozario, *Transcript of evidence.*, p. 14.

<sup>190</sup> *Commercial Passenger Vehicle Industry Act 2017* (Vic) s 236.

The levy is payable through an online portal. Under the *Commercial Passenger Vehicle Industry Act 2017* revenue from the levy is paid into the general consolidated fund. At the time of writing there is no ‘sunset’ provision to end the levy.

The levy is administered by the State Revenue Officer, which includes:

- collection
- debt recovery
- levy payer education
- compliance.<sup>191</sup>

The CPVAA was critical of the levy. It noted that as a proportion the levy is much higher for short trips and stated that this:

... impacts many pensioners who might be transported a short distance to the local shops or to the doctors. It also hits hard people in regional and country areas where short trips of low value are more common.<sup>192</sup>

At a public hearing, Mr Paul Broderick, Commissioner and Chief Executive Officer, described the three-stage process the State Revenue Office was implementing to assist booking service providers in levy compliance. This included:

- a nine-month education and information phase, including brochures, online newsletters and factsheets in a variety of languages, site visits, and seminars and online media such as webinars and instructional videos
- data matching to ensure those required to had registered for the levy. This included a ‘light touch’ compliance approach in November–December 2018 and April 2019, resulting in an increase in registrations and payments
- a future compliance program where staff take commercial passenger vehicle trips to ensure the levy is being collected and in turn provided to the State Revenue Office.<sup>193</sup>

Mr Broderick stated that approximately 6,500 parties are registered to pay the levy.<sup>194</sup> He also provided the following data on the levy:

- \$48 million collected in the first three quarters since 1 July 2018, and a projected \$60 million in the first year of operation
- an initial cost of \$1.15 million to build the required IT system
- approximately \$600,000 a year to administer the levy, which is expected to rise as the State Revenue Office undertakes further compliance activities.<sup>195</sup>

<sup>191</sup> Mr Paul Broderick, Commissioner of State Revenue and Chief Executive Officer, State Revenue Officer, public hearing, Melbourne, 28 August 2019, *Transcript of evidence*, p. 1.

<sup>192</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, p. 19.

<sup>193</sup> Broderick, *Transcript of evidence.*, p. 1.

<sup>194</sup> *Ibid.*, p. 4.

<sup>195</sup> *Ibid.*, pp. 2, 4.

Many inquiry participants were concerned that some drivers are avoiding paying the levy by not registering their trips. They also argued that the number of new applications made the levy incredibly difficult to enforce. In its submission, the CPVAA summarised these concerns as follows:

Anecdotally, it is well known around industry circles that the levy is very leaky and that compliance is poor across the driving pool. Many drivers have not even registered with the SRO. This is in part due to a large portion of drivers being transient industry members. Not only do they move on in terms of employment, many also depart the country once their visas expire, their studies end or their time is up.<sup>196</sup>

In response, Mr Vasko Nasteski, Acting Manager of Policy and Legislation at the State Revenue Office, told the Committee:

We do not think that is probably accurate. We get information from the CPV about everybody who is accredited to drive vehicles in Victoria, so we have that information. We know who is likely to be liable for the levy so we know who they are up-front so we can chase them up for their registration purposes. But as I said, anybody who is liable for the levy needs, by law, to keep all of their relevant data in relation to their trips. So, for example, if we do not have that data for the first quarter, the second quarter, we can go back as far as five years and get it. Whilst there may be some accusation that there is some leakage that people have not paid, it does not mean they have got away with it just yet.<sup>197</sup>

The Committee acknowledges that the State Revenue Office is implementing a phased approach to compliance and enforcement of the levy. Accordingly, it is too soon to comment on compliance with the new scheme.

Further, the Committee notes that its previous Inquiry into the Commercial Passenger Vehicle Industry Bill 2017 recommended a reduced levy in rural and regional areas, due to the disproportionate impact it was likely to have.<sup>198</sup> In its response to the Committee, the Government stated:

A rebate scheme could be considered to address any circumstances where the implications of replacing licence costs with a levy has led to geographically inequitable operating costs and fare structures.<sup>199</sup>

The Department of Transport's website currently states that a rebate scheme 'will be implemented for country areas if the levy has a disproportionate [e]ffect in smaller communities'.<sup>200</sup> It is unclear whether any analysis has yet occurred regarding such an impact, or what the Victorian Government's intentions are on a potential rebate.

<sup>196</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, p. 20.

<sup>197</sup> Mr Vasko Nasteski, Acting Manager, Policy and Legislation, State Revenue Office, public hearing, Melbourne, 28 August 2019, *Transcript of evidence*, p. 3.

<sup>198</sup> Parliament of Victoria, Economy and Infrastructure Committee, *Inquiry into the Commercial Passenger Vehicle Industry Bill 2017*, p. xi.

<sup>199</sup> Government of Victoria, *Response to the Parliament of Victoria, Economy and Infrastructure Committee, Inquiry into the Commercial Passenger Vehicle Industry Bill 2017*, 21 June 2017, p. 3.

<sup>200</sup> Victorian Government Department of Transport, *Taxi and hire car industry reforms*, 2019, <<https://transport.vic.gov.au/getting-around/taxis-hire-car-and-ridesharing/industry-reforms>> accessed 22 August 2019.

**RECOMMENDATION 8:** That the Victorian Government review the \$1 commercial passenger vehicle industry levy to clarify its position on:

- considerations for rebates or removal of the levy in regional centres
- the levy's finishing date
- consideration of alternative funding models.

### 3.7 Fares

The Victorian Government's reforms introduced 'deregulated' fares for booked commercial passenger vehicle services across Victoria. Commercial Passenger Vehicles Victoria stated this was intended to 'promote competition and innovation'.<sup>201</sup> The Essential Services Commission continues to review and regulate fares for unbooked commercial passenger vehicle services in metropolitan and large regional areas.<sup>202</sup>

Mr David Samuel, Head of Public Affairs at A2B Australia, believed regulated fares had a place to 'protect consumers from exploitation and confusion'.<sup>203</sup> Similarly, Ride Share Drivers United considered a minimum per-kilometre fare should be established over the entire commercial passenger vehicle industry to properly reflect the operating costs for drivers.<sup>204</sup>

In its submission, the CPVAA described the dynamic pricing used by rideshare as 'predatory' and fares charged at 'below cost rates'.<sup>205</sup> It further stated the lower fees were temporary and do not reflect the true cost of business:

It is claimed by many that predatory pricing practices are commonplace and seek to thwart competition until market dominance has been achieved. It would be of great concern to the consumer if ever pricing within the industry was dictated by a large multinational corporation with a clear monopoly across the sector.<sup>206</sup>

The Association also questioned the sustainability of these fares 'if a taxi fare is considered reasonable to maintain financial viability in an orderly market as opposed to a diluted one'.<sup>207</sup>

Taxi fares have not increased since 2014 when the Essential Services Commission determined a 12.5 per cent increase was appropriate due to operational costs, driver share and industry returns at the time.<sup>208</sup>

<sup>201</sup> Commercial Passenger Vehicles Victoria, *Submission 311*, p. 3.

<sup>202</sup> Such as Ballarat, Bendigo and Shepparton.

<sup>203</sup> Mr David Samuel, Head of Public Affairs, A2B Australia, Public hearing, Melbourne, 31 July 2019, *Transcript of evidence*, p. 39.

<sup>204</sup> Ride Share Drivers United, *Submission 261*, p. 2.

<sup>205</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, pp. 26, 39.

<sup>206</sup> *Ibid.*, p. 39.

<sup>207</sup> *Ibid.*, p. 28.

<sup>208</sup> Essential Services Commission, *Taxi fare review 2013-14: Final report*, Essential Services Commission, 2014, pp. xvii-xx.

Mr Samuel told the Committee that raising fares now would be difficult because:

... you are catching up in such large amounts and no government wants to oversee a regime that puts taxi fares up by 20 per cent because you have not done it for 10 years. This all went wrong a long time ago when people started to get involved in this process and things were not done on an annualised basis like everyone else's wages are determined.<sup>209</sup>

The Essential Services Commission last reviewed unbooked commercial passenger vehicle fares in 2018. The Commission determined to keep the maximum fare for unbooked commercial passenger vehicles unchanged to avoid 'undesirable consequences' due to the transition of the industry. It noted:

- an increase in fares could make passengers worse off if the full amount is passed through to consumers
- service providers could also be worse off if the increase results in fewer passengers
- fare increases may attract more vehicles when current indications show that supply is sufficient.<sup>210</sup>

The Committee appreciates the taxi industry is currently particularly sensitive to the price of fares as rideshare services have the financial backing to provide lower fares for a period of time. However, the Committee notes that the current structure is creating a disparity in employment conditions across the sector, not the promised 'level playing field', and believes that a review of employment conditions is overdue. The Committee adds that this would only be possible once the Victorian Government clarifies its policy on the industry's long-term employment conditions, as listed in Recommendation 5.

**RECOMMENDATION 9:** That the Victorian Government review the maximum fares set by the Essential Services Commission and introduce fare pricing indexation in line with the Consumer Price Index.

**RECOMMENDATION 10:** That the Victorian Government consider introducing fare pricing for booked commercial passenger vehicle services.

**RECOMMENDATION 11:** That the Victorian Government review the disparity in fares and driver incomes across the commercial passenger vehicle industry with a view to ensuring the sector is a level playing field for all participants.

<sup>209</sup> Samuel, *Transcript of evidence.*, p. 41.

<sup>210</sup> Essential Services Commission, *Unbooked commercial passenger vehicle fare review 2018*, p. 2.

## 3.8 Safety concerns

Many stakeholders raised concerns about the safety of both passengers and drivers under the new commercial passenger vehicle framework. Since the legalisation of rideshare, there is a discrepancy in the types of safety requirements and mechanisms between unbooked and booked commercial passenger vehicles.

### 3.8.1 Cameras

Under the former regulations, all taxis were required to be fitted with tamper-proof CCTV cameras. The CPVAA noted that recordings from these cameras could only be accessed by the industry regulator and Victoria Police. After the Government's 2017 reforms, this requirement only applies to unbooked services,<sup>211</sup> on the basis that rides initiated on the street or from taxi ranks do not have any identifying details of the trip that booked trips do. Commercial Passenger Vehicles Victoria currently regulates which cameras are fit for purpose.<sup>212</sup>

The CPVAA acknowledged that rideshare bookings are not strictly 'anonymous' due to drivers having registered accounts. However, it stated that 'there will always be some people who choose to behave in ways that contravene the law'. It considered that video recordings were 'the only way' to ensure passenger and driver safety to provided irrefutable evidence to pursue and support convictions and recommended mandatory tamper-proof cameras for all commercial passenger vehicles taking anonymous bookings.<sup>213</sup>

Ms Debra Weddall, a rideshare driver who gave evidence at a public hearing, discussed safety cameras from a driver's perspective:

I have a camera in my car that does not work and I actually think it has saved me because people do not know whether it works or not. It is just sitting there in their view. Yes, a camera would be a great idea. However .... it has been pointed out to us that we do not want to get locked into a situation where we have to pay thousands of dollars to a company that has tendered for that on the basis that they are making a profit out of installing those cameras. We cannot afford to pay those thousands of dollars.<sup>214</sup>

Ms Kate Stannett, Uber's Head of Cities, Australia and New Zealand, discussed Uber's safety mechanisms:

From a driver's perspective we have a safety toolkit that is available to them in their app, which gives them access to a number of different support functions, including an SOS button should they need it that can connect them with law enforcement and connects

<sup>211</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, p. 35.

<sup>212</sup> Commercial Passenger Vehicles Victoria, *Security cameras in commercial passenger vehicles*, 2019, <<https://cpv.vic.gov.au/vehicle-owners/commercial-passenger-vehicle-specifications/security-cameras-in-commercial-passenger-vehicles#info>> accessed 26 September 2019.

<sup>213</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, pp. 35-6.

<sup>214</sup> Debra Weddall, Public hearing, Melbourne, 31 July 2019, *Transcript of evidence*, p. 35.

them with us. Every trip is GPS tracked; we know who is in the car at any point in time. That accountability in itself, it has been really interesting to see how that drives good behaviour. I think the rating system as well, while quite simple—so the idea that after your trip every driver can rate their rider a star rating out of 5 and vice versa—in itself drives a level of accountability and professionalism and appropriate behaviour with people using the app.

The other thing that we have are community guidelines, and the community guidelines set out our expectations for both riders and driver-partners about what their obligations are and what is appropriate conduct using the app. And if those guidelines are breached, then riders or driver-partners can lose access to the app.<sup>215</sup>

Mr Richard Willder, Public Policy and Government Affairs, Australia and New Zealand for Uber, told the Committee Uber did not consider mandatory cameras ‘necessary in the current environment’. He stated Uber supported the current regulatory requirements and considered them fit for purpose.<sup>216</sup>

The Committee agrees that current government regulations and industry guidelines provide the public with some level of safety. However, CCTV cameras are a valuable source of evidence used in prosecutions against both drivers and passengers. As such, the Committee believes there is merit in investigating whether cameras should be installed in all commercial passenger vehicles to address safety concerns for both consumers and drivers.

**RECOMMENDATION 12:** That the Victorian Government consider requiring CCTV cameras to be installed in all commercial passenger vehicles.

### 3.8.2 Vehicle signage

The RACV raised concerns about commercial passenger vehicle signage under the reforms. It noted the format of signage is largely up to the provider and varies across companies. Currently, the only specification provided by Commercial Passenger Vehicles Victoria is that the vehicle signage must be displayed in a place where it can’t be removed by someone sitting in the driver’s seat of the vehicle.<sup>217</sup> The RACV believed the lack of guidance could pose a safety risk, as unregistered drivers could easily replicate legitimate signage. Accordingly, the RACV recommended stricter regulations for commercial passenger vehicle signage approval and distribution to ensure they are not easily replicated.<sup>218</sup>

<sup>215</sup> Kate Stannett, Head of Cities, Australia and New Zealand, Uber, Public hearing, Melbourne, 31 July 2019, *Transcript of evidence*, p. 7.

<sup>216</sup> Richard Willder, Public Policy and Government Affairs, Australia and New Zealand, Uber, Public hearing, Melbourne, 31 July 2019, *Transcript of evidence*, p. 8.

<sup>217</sup> Commercial Passenger Vehicles Victoria, *Commercial passenger vehicle identification*, 2019, <<https://cpv.vic.gov.au/vehicle-owners/vehicle-identification>> accessed 26 September 2019.

<sup>218</sup> RACV, *Submission 224*, pp. 2, 6.

Similarly, the CPVAA noted reports of individuals posing as rideshare drivers and picking up individuals who had not paid attention to the car they entered. It recommended that all commercial passenger vehicles be required to have permanently affixed identification, whether a specialised number plate or other signage.<sup>219</sup>

Uber's Mr Willder noted that around 50 per cent of Uber's drivers work for under 10 hours a week. Accordingly he did not consider permanent signage necessary.<sup>220</sup>

The Committee acknowledges the concerns of stakeholders over safety issues that may arise from inappropriate or easily replicable signage, as well as the implication for drivers who choose to work for short periods of time only.

**RECOMMENDATION 13:** That the Victorian Government review current signage and identification requirements for commercial passenger vehicles to ensure they protect public safety without being unnecessarily onerous on the industry.

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<sup>219</sup> Commercial Passenger Vehicle Association of Australia, *Submission 189*, pp. 35-6.

<sup>220</sup> Richard Willder, Public Policy and Government Affairs, Australia and New Zealand, Uber, Public hearing, Melbourne, 31 July 2019, *Transcript of evidence*, p. 8.

# Appendix 1

## About the Inquiry

### A1.1 Submissions

1	Confidential
2	Greg Gilliver
3	Igor German
4	Confidential
5	Evangelos Tatsis
6	Murat Demir
7	Kam Singh
8	Confidential
9	Confidential
10	Name Withheld
11	Jose Filipe
12	Maria De Sousa Filipe
13	Con & Christine Bios
14	Confidential
15	Harbinder Kaur
16	Christina Papasavva
17	Steven McDougall
18	Confidential
19	Confidential
20	Joseph Dias
21	Steve Margelis
22	Rajesh Gupta
23	Reg Pauline
24	Name Withheld
25	Errol Chavoush
26	Confidential
27	Ken Benton
28	Semih Goker
29	Eva Dzienciol
30	Confidential
31	Franco Ferrigno
32	Confidential
33	Michael De Ararugo
34	Confidential
35	Wajeh Hammoudah
36	Kamil Ongoren
37	Denise Sax
38	Confidential
39	Name Withheld
40	Chris Apostolopoulos
41	Con & Zoe Galanis
42	Con & Zoe Galanis
43	Name Withheld
44	Vasilios & Stavroula Christopoulos
45	George Gialelis
46	Confidential
47	Name Withheld
48	Name Withheld
49	Greg Collins
50	Confidential
51	George Skondras
52	Can Doganagun
53	Confidential
54	Mark Cardona
55	Tony Candido
56	Confidential
57	Kevin Gubbins
58	Confidential
59	Confidential
60	Mark Narouz

61	Kon Avramidis	97	John Kaboukos
62	Confidential	98	Eveangelos Theodorou
63	Confidential	99	Confidential
64	Said Said	100	Confidential
65	Terrence Loveridge	101	Name Withheld
66	Name Withheld	102	Simon Bordonaro
67	Lehmbert Dhnoa	103	Name Withheld
68	Robert Heron	104	John Candido
69	Victor Cardoso	105	Confidential
70	WEstjustice	106	Ioannis Argyro Fassoulakis
71	Melina Antoniadis	107	Chris & Vicki Pongas
72	Necip Eser	108	Con, Chris & Maria Andoniou
73	Allan Kleimann	109	David Payton
74	Confidential	110	Anastasios Flitzanis
75	Mehmet Ekrem Kuloglu	111	Stewart Baird
76	Christos Rigas	112	Confidential
77	Onur Koken	113	Apostolos Xynos
78	Don Thompson	114	Name Withheld
79	Nicholas Gramatakos	115	Adrian Knight
80	Gagandeep Singh	116	John Vlasakakis
81	Michael Drury Margaret Drury Shane Drury	117	Ibrahim shaker Ibrahim
82	Theodore and Anastasia Milonas	118	Maria Pallas
83	Ramazan Zengin	119	Name Withheld
84	Orazio Scamporlino	120	Giovanni Viola
85	Name Withheld	121	Name Withheld
85a	Name Withheld Appendix A	122	Gurpal Garcha
86	Confidential	123	Petros Stamatakos
87	Confidential	124	Confidential
88	Confidential	125	Confidential
89	Confidential	126	Vicky & Arthur Bouronikos
90	Errol and Barbara Spaul	127	Victorian Taxi Families
91	Confidential	128	Michalis Kalopisis
92	Name Withheld	129	Name Withheld
93	George Soitaridis	130	Kerry Lagan
94	Andre Baruch	131	Nick Sangas
95	Erdogan Umay	132	Gursimran Deep Singh
96	Confidential	133	John Frederick Fitz
		134	Confidential

135	Paul Yammouni	173	Charles Pisani
136	Name Withheld	174	Dimitrios & Panagiota Dimitriou
137	Ross Sanders	175	Anthony Joass
138	Andrew Yamouni	176	Zeki Zeki
139	David Hartley	177	Helen Ntentis
140	Michael Bajjali	178	Darryl Quinlan
141	Name Withheld	179	Trish Vigo
142	Con & Christine Panagiotopoulos	180	Mark Longton
143	George Babtsikos	181	Theodoros Tsiokas
144	Gilgur & Mirjana Hristovski	182	Howard Webb
145	Stuart Arnel	183	Kevin & Leane McKenzie
146	Saban Gunsay	184	Gavin Mackenzie
147	Jacob Revzin	185	Confidential
148	Andrew Troupis	186	Steve Cvetkovski
149	Confidential	187	Confidential
150	Greg Ackling	188	Victorian Taxi Association
151	Name Withheld	189	Commercial Passenger Vehicle Association of Australia
152	Confidential	190	Stephen Armstrong
153	Gregoria Fieschi	191	Trifon Giantsidis
154	Confidential	192	Confidential
155	Jennifer Trewin	193	Colin Wells
156	George & Voula Voukelatos	194	John de Bruyn
157	Johnny Swan	195	Brian Woods
158	Hussein Kadour	196	Mustafa Baskan
159	Memis Dogan	197	Scott Cowie
160	Bill Ioannou	198	Name Withheld
161	Name Withheld	199	Confidential
162	Name Withheld	200	Yuri Kaini
163	Name Withheld	201	Neil Griffin
164	Confidential	202	Darryl Howard
165	Michael Cengiz	203	Peter Manikas
166	Confidential	204	John & Peter Roumanos
167	Loucas Mitsis	205	Horsham Taxis Pty Ltd
168	Ray Ramadan	206	Confidential
169	Ararat Cabs Pty Ltd	207	Carers Victoria
170	Panagiotis Alexopoulos	208	Confidential
171	Name Withheld	209	Bus Association Victoria
172	Confidential		

210	Uber	248	Dennis Niblett
211	Rift Holdings	249	Confidential
212	Confidential	250	David McConvill
213	Confidential	251	Reshad Nahimzada
214	Confidential	252	Harry Pandaleon
215	Jim Skafidas	253	Confidential
216	Eli Vainbrand	254	Joe & Rosina Elzein
217	Confidential	255	Angucia Opiem
218	Confidential	256	Ashish Bhatia
219	Christos Alevras	257	Melbourne Airport
220	Gulwinder Dhillon	258	Michael de Araugo
221	Confidential	259	Apostolos & George Xynos
222	Confidential	260	Steve Gorovestis
223	Maurice Blackburn Lawyers	261	Ride Share Drivers United
224	RACV	262	Asif Ali Zafar
225	Sacaha & Gianluca Matarazzo	262a	Asif Ali Zafar
226	Connie Skliros	263	Songul Gordanic
227	Confidential	264	Confidential
228	Toni Peters	265	Confidential
229	Athan Tsigotis	266	Confidential
230	Wodonga Taxis	267	Name Withheld
231	Michael Power	268	Confidential
232	Nick Angelopoulos	269	Badih Sakr
233	Confidential	270	Confidential
234	Vicki Georgaklis	271	Evan Agnos
235	Craig Tresise	272	Name Withheld
236	NSW Taxi Council Ltd	273	Jane & Edwin Lau
237	Confidential	274	Name Withheld
238	Geelong Taxi Network	274a	Name Withheld A
239	Transport Workers Union	275	Cheuk Lai
240	Confidential	276	Spyridon Frances
241	Name Withheld	277	Ralph Grapentin
242	Hilmi Hussein	278	Gino Zurzolo
243	Nikolaos & Panagiota Vlahos	279	Jagpal Aujla
244	Victorian Trades Hall Council	280	John Kourouvanis
245	Confidential	281	John & Tina Skafidas
246	Name Withheld	282	Nicholas & Harry Pashias
247	Name Withheld	283	Confidential

284	Confidential	301	Ola Australia Pty Ltd
285	George Alexellis	302	Assunta De Melis
286	Colin Butcher	303	Name Withheld
287	Name Withheld	304	John Stathis
288	Leo Mauro	305	NAME WITHHELD
289	George Chayeb	306	Confidential
290	Maria Samlidis	307	Confidential
291	Confidential	308	Confidential
292	Chris & Anastasia Sergiannis	309	Confidential
293	Confidential	310	Nicos Andrianakis
294	Confidential	311	Commercial Passenger Vehicles Victoria
295	Sarah Boukouras	312	Department of Transport
296	Trevor Collins	313	13cabs
297	Confidential	314	Tulay Kaygisiz
298	Semra Alakoc	315	Wedding Car Association
299	Confidential		
300	Confidential		

## A1.2 Public hearings

### Wednesday 19 June 2019

Legislative Council Committee Room, Parliament House, East Melbourne

Name
Ms Denise Sax
Mr Victor Cardoso
Mr Mark Shehata
Mr Kim Guest

## Wednesday 31 July 2019

Legislative Council Committee Room, Parliament House, East Melbourne

Name	Title	Organisation
Mr David Samuel	Head of Public Affairs	13CABS
Mr Fred Lukabyo	Chief Operating Officer	
Mr Richard Willder	Public Policy and Government Affairs, Australia and New Zealand	Uber
Ms Kate Stannett	Head of Cities, Australia and New Zealand	
Ms Lorie Argus	Chief of Parking and Ground Access	Melbourne Airport
Ms Kathryn Hodges	Head of Government and Stakeholder Engagement	
Mr Denis Nelthorpe	Chief Executive Officer	WEstjustice
Mr George Pavlou	TWU VIC Taxi Ride Share Organiser	Transport Workers Union
Ms Nat Kingston	-	
Ms Deborah Weddall	-	
Mr André Baruch	President	Commercial Passenger Vehicle Association of Australia
Mr Max B	Head	RideShare Drivers United

## Wednesday 28 August 2019

Legislative Council Committee Room, Parliament House, East Melbourne

Name	Title	Organisation
Mr Paul Broderick	Commissioner of State Revenue	State Revenue Office
Mr Vasko Nasteovski	Acting Manager, Policy and Legislation	
Mr Paul Younis	Secretary	Department of Transport
Ms Megan Bourke-O'Neil	Deputy Secretary, Policy & Innovation	
Mr Aaron de Rozario	CEO	Commercial Passenger Vehicles Victoria

# Appendix 2

## Transitional funding alternative scenarios

### A2.1 Transitional funding: alternative scenario 1

Licence type	First licence \$	Second, third and fourth licences \$
<b>Taxi licences</b>		
Urban/Metro	150,000	50,000
Regional	75,000	25,000
Country Taxi	22,500	7,500
Urban/Metro fixed-term	50,625	N/A
Other fixed-term and annual licences	N/A	N/A
<b>Hire car licences</b>		
Metropolitan Hire	37,500	12,500
Country Hire	18,750	6,250
Special Purpose, Restricted Hire	1,875	625
<b>TOTAL COST</b>		<b>473,863,125</b>

### A2.2 Transitional funding: alternative scenario 2

Licence type	First licence \$	Second, third and fourth licences \$
<b>Taxi licences</b>		
Urban/Metro	200,000	50,000
Regional	100,000	25,000
Country Taxi	30,000	7,500
Urban/Metro fixed-term	67,500	N/A
Other fixed-term and annual licences	N/A	N/A
<b>Hire car licences</b>		
Metropolitan Hire	50,000	12,500
Country Hire	25,500	6,250
Special Purpose, Restricted Hire	2,500	625
<b>TOTAL COST</b>		<b>616,015,000</b>



# Appendix 3

## **Application for access to the Fairness Fund**

A3



# Victoria's taxi and hire car industry is changing

APPLICATION FOR  
ACCESS TO THE  
FAIRNESS FUND



## The Victorian Government's Fairness Fund is now open for applications.

The Victorian Government reforms to the commercial passenger vehicle industry announced on 23 August 2016 will ensure high standards for all commercial passenger vehicles, including taxis, hire cars and ride share services.

The Fairness Fund is needed because proposed reforms to the commercial passenger vehicle market, while benefiting customers, are also affecting people who own a taxi or hire car licence. Funding will provide targeted financial support to those licence holders who need it most.

The Fairness Fund is separate to the previous \$4 million Taxi Reform Hardship Fund. Significantly more funding is available to provide support now, and the eligibility criteria for payments are different because the reforms affecting the industry are different.

The Fairness Fund is also separate to assistance payments. After the Government's industry reforms become law, assistance payments will be available to all perpetual and fixed-term licence holders where the licence fee was paid up-front (not in annual instalments). Eligibility for assistance payments will be assessed and paid in addition to any payment you receive from the Fairness Fund.

### Who will be eligible?

People who had an ownership interest in a taxi or hire car licence at any time in the period 1 January 2016 to 23 August 2016 and who are facing significant financial hardship as a result of the proposed reforms may qualify for an assistance payment where any or all of the following can be demonstrated:

- A lack of current income or the loss of a future income stream that is significantly impacting on household spending capacity
- Significant difficulty in meeting ongoing debt obligations related to the licence(s) held
- A lack of available funds to meet financial commitments

Special consideration may also be given to applicants with extenuating circumstances that are resulting in financial hardship of a different nature to that set out above.

### When should I apply?

The Fund is now open and will close to new applications on 30 April 2017.

Applications will be assessed as soon as they are received. Early payments will be made available to eligible applicants in priority cases, before the Fund closes. The sooner you apply, the sooner those eligible will be able to receive their payment.

You can help ensure your application is assessed quickly by providing accurate and complete information on the form provided.

If you are planning to apply for support from the Fairness Fund, make sure you send your application by the closing date.

## Assessment of your application

To establish eligibility, applicants will be means-tested and assessed against a set of guidelines supporting the outlined eligibility criteria. Eligibility will be reviewed on a case-by-case basis and will be determined based on a number of factors, including income, indebtedness and availability of funds. Your eligibility can only be determined if you provide full and accurate information in your application. Should there be multiple persons with an interest in the same licence, then each individual with an ownership interest should consider the eligibility criteria, and if applicable, submit an application as it relates to their own financial circumstances. Such applications should not be submitted jointly, unless as part of the one family unit. Please note this application requires you to complete a Statutory Declaration in order to certify that the information you provide is true and correct, and that you have not knowingly omitted any information.

Information and documentation provided in the application is subject to audit and additional information may be requested after the form has been submitted.

### This application form consists of five Sections:

- Section 1. Background
- Section 2. Applicant Claim
- Section 3. Income
- Section 4. Assets and Liabilities
- Section 5. Statutory Declaration

### When completing this application form:

- Print clearly using blue or black ink. Print 'X' in the appropriate boxes where requested
- You can also complete the application form on your computer and then print it out to sign it
- Never send originals of any documents you include – submit copies
- Clearly label any documents you enclose with your name and the relevant section that the information is supporting
- Please do not staple the application or supporting information

### To be considered for access to the fund you must:

- Submit this application form by 30 April 2017
- Sign the Statutory Declaration on page 12
- Send the application form and attachments to:

Fairness Fund  
GPO Box 2392  
Melbourne VIC 3001

Or email to: [fairnessfund@ecodev.vic.gov.au](mailto:fairnessfund@ecodev.vic.gov.au)

## Where can I get help with my application?

The Government has engaged WEstjustice to assist licence holders with Fairness Fund applications. WEstjustice can be contacted as follows:

### Footscray Office

Level 1, 72 Buckley Street, Footscray, VIC 3011  
E: [admin@westjustice.org.au](mailto:admin@westjustice.org.au)  
T: (03) 9749 7720  
F: (03) 9749 8276

### Werribee Office

Level 1, 8 Watton Street, Werribee, VIC 3030  
E: [admin@westjustice.org.au](mailto:admin@westjustice.org.au)  
T: (03) 9749 7720  
F: (03) 9749 8276

## Section 1. Background

### Section 1.1 Applicant details

Title (mark with 'X')  Mr  Mrs  Miss  Ms  Other (specify)

Family name

First given name

Second given name

Date of birth

Postal address

State

Postcode

Email address

Telephone number

### Section 1.2 Taxi or hire car licence ownership

**Note:** An ownership interest in a licence(s) can be held directly or through a related entity, such as a company or trust.

**Did you have an ownership interest in a taxi or hire car licence(s) at any time during the period 1 January 2016 to 23 August 2016?** (mark with 'X')  Yes  No

*If No, you are ineligible to receive a payment from the Fund, do not proceed with the form.  
If Yes, please provide the following details for your licence(s):*

Licence number	Registered licence owner (e.g. personal name, company, family trust)	Type of licence (e.g. perpetual, 10 year fixed term, annual)	Ownership %	Acquisition price \$	Date acquired

## Section 2. Applicant claim

### Section 2.1 Basis of claim

In the box below, briefly describe the circumstances of your financial hardship, explain how you consider this to be a direct result of the announced Victorian taxi and hire car industry reforms. Where relevant, please describe any actions you may have taken to address your financial situation (e.g. sale of assets, refinancing of debt).

### Section 2.2 Partner and dependants

Do you have a partner and/or dependants? (mark with 'X')

Yes     No

*If No, go to [Section 3.1](#)*

*If Yes, please provide the following details of your partner and/or dependants:*

Name	Relationship to you	Age

## Section 3. Income

### Section 3.1 Income

*Provide copies of you and your partner's income tax return and Notice of Assessment for the financial year ended 30 June 2016. If you or your partner's income level has changed since 30 June 2016, provide the last 3 pay advices and other relevant information to support the current income level. It is not necessary to disclose your Tax File Number. Any income not detailed on the income tax return should be supported by relevant evidence.*

**Note:** Income declared should include, but not be limited to, wages, income from the licence(s) held, businesses owned, rental income, interest, dividends, pensions, Centrelink income, and any income from another Government department.

**Did you and (if applicable) your partner earn income during the period 1 July 2015 to 30 June 2016?** (mark with 'X')  Yes  No

*If No, go to [Section 4](#)*

*If Yes, please provide the following details of the income earned by you and (if applicable) your partner:*

Individual's name (i.e. you and if applicable, your partner)	Net income <b>after tax</b> for the financial year ended 30 June 2016 \$

### Section 3.2 Assignment lease income

*Provide copies of assignment lease agreement and evidence of amounts received for the year ended 30 June 2016.*

**Did you receive any assignment lease income during the period 1 July 2015 to 30 June 2016?** (mark with 'X')  Yes  No

*If No, go to [Section 4](#)*

*If Yes, please provide the following details of the assignment lease income earned by you:*

**Note:** Any assignment lease income after tax should be included in both Section 3.1 and Section 3.2.

Licence number	Assignment lease income <b>after tax</b> for the financial year ended 30 June 2016 \$

## Section 4. Assets and liabilities

### Section 4.1 Accounts in banks, building societies or credit unions

*Provide a statement from your bank or financial institution showing the current account balance, within 2 months of application submission.*

**Note:** Accounts and term deposits outside Australia as well as joint accounts should be included.

**Do you and (if applicable) your partner have funds in savings accounts, cheque accounts or term deposits? (mark with 'X')**  **Yes**  **No**

*If No, go to [Section 4.2](#)*

*If Yes, please provide the following details (for both you and your partner):*

Name of bank, building society or credit union	Name of account holder(s)	Account number	Type of account	Balance of account at most recent statement date \$

### Section 4.2 Real estate

*Provide a copy of any mortgage (debt) statements and any evidence available regarding the current market value (e.g. council rates notice) and ownership of the asset as at the date of the application.*

**Note:** Real estate includes owned occupied premises, vacant land, retail, industrial or commercial premises, house or townhouse, self-contained flat, unit or flats, farm and overseas property. If the property is a farm, include the value of livestock, plant and machinery in estimating market value.

Only describe one of the properties as your place of permanent residence.

**Do you and (if applicable) your partner own any real estate? (mark with 'X')**  **Yes**  **No**

*If No, go to [Section 4.3](#)*

*If Yes, please provide the following details (for both you and your partner):*

Address	Real estate held (type e.g. apartment)	% owned	Primary residence (Y/N)	Estimated value at 30 June 2016 \$	Mortgage owing at most recent statement date \$

### Section 4.3 Licence debt

*Provide a copy of any loan statements associated with your licence(s) for the most recent available date, and evidence of the interest and depreciation deductions claimed for the financial year ended 30 June 2016.*

*Where the licence(s) is held by an entity, please provide a copy of the entity's financial statements for the financial year ended 30 June 2016.*

**Note:** Details should be limited to details of licence(s) that you and (if applicable) your partner have an ownership interest in. Where you only hold a portion of a licence(s), ensure that all amounts listed represent your portion rather than the full value.

**Do you and (if applicable) your partner have a loan associated with a licence(s) at the date of this application?** (mark with 'X')  Yes  No

*If No, go to [Section 4.4](#)*

*If Yes, please provide the following details regarding the licence(s):*

Licence number	Value of your loan associated with licence(s) as at most recent statement date \$	Loan repayments made from 1 July 2015 to 30 June 2016 \$	Interest deductions claimed for the financial year ended 30 June 2016 \$	Depreciation deductions claimed for the financial year ended 30 June 2016 \$

### Section 4.4 Shares and managed investment schemes

*Provide a copy of any bank or holding statements as at 30 June 2016.*

**Do you and (if applicable) your partner own any interest in shares, options, rights, notes or other securities that are either listed on a stock exchange, or are issued by a private or public company that is not listed on a stock exchange?** (mark with 'X')  Yes  No

*If No, go to [Section 4.5](#)*

*If Yes, please provide the following details (for both you and your partner):*

Name of company	Type of share or security (i.e. ordinary, preference, redeemable)	Number of shares held in most recent month \$	Estimated value at the end of the previous month \$	% owned

## Section 4.5 Superannuation (complete only if accessible)

*Provide a copy of any superannuation account statements as at 30 June 2016.*

**Note:** Superannuation outside Australia should be included. Please only include those amounts that have vested and are able to be accessed by the applicant or their partner at the date of this application.

**Do you and (if applicable) your partner hold any superannuation fund accounts where amounts are currently accessible by the account holder?** (mark with 'X')  Yes  No

*If No, go to [Section 4.6](#)*

*If Yes, please provide the following details (for both you and your partner):*

Name of superannuation fund	Account number/ Membership number	Type of fund/assets held i.e. retail/industry	Balance of fund at 30 June 2016 \$

## Section 4.6 Vehicles

*Provide a copy of any loan statements and any evidence available regarding the current market value and ownership of the asset at most recent available statement date.*

**Note:** Vehicles includes motor vehicles (e.g. taxi, family car), caravans, motor homes and boats.

**Do you and (if applicable) your partner own, either wholly or jointly, any vehicles?** (mark with 'X')  Yes  No

*If No, go to [Section 4.7](#)*

*If Yes, please provide the following details (for both you and your partner):*

Make	Model/Year	Type e.g. taxi, family motor vehicle, boat	% owned	Estimated value at date of application \$	Loan owing at most recent statement date \$

## Section 4.7 Other assets

*Provide any relevant information available regarding other assets. This may include financial statements of entities, copies of any loan statements, invoices for the purchase of item and valuations obtained.*

**Note:** Other assets may include, but are not limited to, cash on hand (where over \$5,000), interest in a business, shares in a private company or an interest in a family or unit trust. All assets outside of Australia should be included.

**Do you and (if applicable) your partner have any other assets not indicated on this form? (mark with 'X')**  Yes  No

*If No, go to [Section 4.8](#)*

*If Yes, please provide the following details (for both you and your partner):*

Description of asset	% owned	Estimated value at date of application \$	Amount owed (if financed) at most recent statement date \$

## Section 4.8 Other debts

*Provide a copy of loan, credit card or credit facility statements showing the current account balance – must be within 2 months of application submission.*

**Note:** Other debts may include, but are not limited to, personal loans, credit card debt and hire purchase agreements.

**Do you and (if applicable) your partner have any other debts? (mark with 'X')**  Yes  No

*If No, go to [Section 4.9](#)*

*If Yes, please provide the following details (for both you and your partner):*

Type of debt	Account/ Reference Number	Owed to	Amount outstanding at most recent statement date \$

### Section 4.9 Gifts and sale of assets

Have you and (if applicable) your partner gifted or sold any property or assets since 1 July 2014 of an amount greater than \$10,000?  Yes  No

(mark with 'X')

If No, go to [Section 4.10](#)

If Yes, please provide the following details (for both you and your partner):

Date of gift/ asset sale	Item gifted/ sold	Estimated value of gift/ asset \$	Sale price (if applicable) \$

### Section 4.10 Previous Taxi Reform Hardship Fund payment

Did you and (if applicable) your partner receive a payment from the previous Taxi Reform Hardship Fund?  Yes  No (mark with 'X')

Note: You are still able to apply for this fund if you received a payment from the previous fund.

## Section 5. Statutory Declaration

I, \_\_\_\_\_  
(full name)

of \_\_\_\_\_  
(address)

\_\_\_\_\_, do solemnly and sincerely declare that the information provided by me in this Application for Access to the Fairness Fund is, to the best of my knowledge and belief, true, accurate and complete in every particular and that I have not knowingly omitted any information.

I acknowledge that by submitting this application, I consent for the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) to distribute this application to the Taxi Services Commission to verify licence details as provided in this form.

I acknowledge that this declaration is true and correct, and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury.

Declared at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
(location) (day of month) (month, year)

---

**Signature of person making this declaration** [to be signed in front of an authorised witness]

Before me,

---

### Signature of Authorised Witness

The Authorised Witness must print or stamp his or her name, address and title under section 107A of the *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*), (e.g. Justice of the Peace, Pharmacist, Police Officer, Court Registrar, Bank Manager, Medical Practitioner, Dentist).

### Privacy and your personal information

DEDJTR is responsible for administering the Fairness Fund (Fund). Any personal or health information you provide as part of this application process will be treated in accordance with the *Privacy and Data Protection Act 2014* and *Health Records Act 2001*. DEDJTR will collect, use and disclose your personal information as part of the application process to determine whether or not you are eligible for a payment. As part of this process, your information (including but not limited to taxi and hire car licence ownership information held by the Taxi Services Commission) may be provided to an external auditing firm, an external taxation advisory firm, and the chair of the Fund. The external auditing firm, the chair of the Fund, or DEDJTR may contact you and seek your consent to contact banks or various other bodies in order to verify the accuracy of any information provided. To discuss any privacy concerns or request access or other changes to the personal information we hold about you, please contact the Fund by emailing [fairnessfund@ecodev.vic.gov.au](mailto:fairnessfund@ecodev.vic.gov.au) initially. DEDJTR's Website Privacy Statement is available on [DEDJTR's Privacy webpage](#). DEDJTR's Information Privacy Policy is available by emailing [privacy@ecodev.vic.gov.au](mailto:privacy@ecodev.vic.gov.au).

**Please note:** If you do not provide the information required by this form it may not be possible to process your application.

## Supporting documentation and attachments

The paperclip symbol throughout this application indicated that you are required to attach supporting documentation for a particular section. To ensure we can process your application as quickly and accurately as possible, please make sure all required documents are attached and labelled with the **applicable section**. To help you track this, please fill in and check off the table below as you attach the documents to your application:

Section / Reference	Type of document	Attached and labelled (mark with 'X')	
<b>3.1 Income</b>	Your income tax return for the year ended 30 June 2016	Y <input type="checkbox"/>	
	Your Notice of Assessment for the year ended 30 June 2016	Y <input type="checkbox"/>	
	Your partner's tax return for the year ended 30 June 2016	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
	Your partner's Notice of Assessment for the year ended 30 June 2016	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
	You and/or your partner's most recent 3 pay slips (if income has changed since 30 June 2016), and evidence for any other income	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>3.2 Assignment lease income</b>	Assignment lease agreement	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
	Evidence of assignment amounts received for the year ended 30 June 2016	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>4.1 Accounts</b>	Bank statement for all accounts listed, must be dated <b>within 2 months</b> of application submission	Y <input type="checkbox"/>	
<b>4.2 Real Estate</b>	Evidence of current market value	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
	Loan statement, must be dated <b>within 2 months</b> of application submission	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>4.3 Licence details</b>	Loan statement, must be dated <b>within 2 months</b> of application submission	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
	Evidence of interest and deductions carried	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
	Financial statements for 30 June 2016 (if held by an entity)	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>4.4 Shares and managed investment schemes</b>	Bank or holding statement	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>4.5 Superannuation</b>	Superannuation account statement ( <b>only if you have access to the funds</b> )	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>4.6 Vehicles</b>	Evidence of current market value	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
	Loan statement, must be dated <b>within 2 months</b> of application submission	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>4.7 Other assets</b>	Any relevant evidence	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>4.8 Other debts</b>	Bank statement for all accounts listed, must be dated <b>within 2 months</b> of application submission	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
	Evidence for other debts listed	Y <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>5 Statutory Declaration</b>	Statutory Declaration – signed and dated by you and an authorised witness	Y <input type="checkbox"/>	

More information  
Visit: [www.transport.vic.gov.au/fairness-fund](http://www.transport.vic.gov.au/fairness-fund)



# Extract of proceedings

Legislative Council Standing Order 23.27(5) requires the Committee to include in its report all divisions on a question relating to the adoption of the draft report. All Members have a deliberative vote. In the event of an equality of votes, the Chair also has a casting vote.

The Committee divided on the following questions during consideration of this report. Questions agreed to without division are not recorded in these extracts.

## Committee meeting – 30 October 2019

Mr Davis moved, That the following text be added to Section 1.3.1 of the Final Report: ‘This Committee accepts this legal advice which makes it clear revoking licences was a deprivation of property rights.’

### The Committee divided.

Ayes	Noes
Mr Davis	Mr Elasmarr
Mrs McArthur	Mr Barton
	Mr Gepp
	Mr Quilty
	Ms Terpstra

### Motion negatived.

Mr Davis moved, That the following text be added to Section 1.5 of the Final Report: ‘It is not clear why the Andrews Labor Government allowed Uber and other rideshare companies to operate illegally.’

### The Committee divided.

Ayes	Noes
Mr Davis	Mr Elasmarr
Mrs McArthur	Mr Barton
	Mr Gepp
	Mr Quilty
	Ms Terpstra

### Motion negatived.

Mr Davis moved, That the following text be added to Table 2.1 of the Final Report: 'In both categories fifth and subsequent licences received \$0.'

**The Committee divided.**

Ayes	Noes
Mr Davis	Mr Elasmr
Mrs McArthur	Mr Barton
Mr Quilty	Mr Gepp
	Ms Terpstra

**Motion negatived.**

Mr Davis moved, That the following text be added to Section 2.3 of the Final Report: 'It is also important to note that other jurisdictions did not reduce the value of the licences to zero.'

**The Committee divided.**

Ayes	Noes
Mr Davis	Mr Elasmr
Mrs McArthur	Mr Barton
	Mr Gepp
	Mr Quilty
	Ms Terpstra

**Motion negatived.**

Mr Davis moved, That the following recommendation be added to Section 3.2 of the Final Report: 'That the Victorian Government allocate resources for a public health study on the impact of the changes to the taxi industry on its participants.'

**The Committee divided.**

Ayes	Noes
Mr Davis	Mr Elasmr
Mrs McArthur	Mr Barton
	Mr Gepp
	Mr Quilty
	Ms Terpstra

**Motion negatived.**

Mr Davis moved, That the following text be added to Section 3.3.1 of the Final Report: 'Finding: The Committee considers that the transitional funding package was unfair.'

**The Committee divided.**

Ayes	Noes
Mr Davis	Mr Elasmr
Mrs McArthur	Mr Barton
	Mr Gepp
	Mr Quilty
	Ms Terpstra

**Motion negated.**

Mr Davis moved, That the following text be deleted from Section 3.3.2 of the Final Report: 'on the 'property rights' of licence holders but ultimately considers the matter would require resolution in the courts. As this is beyond the scope of the Parliament's remit, the Committee makes no further comment'.

**The Committee divided.**

Ayes	Noes
Mr Davis	Mr Elasmr
Mrs McArthur	Mr Barton
	Mr Gepp
	Mr Quilty
	Ms Terpstra

**Motion negated.**

Mr Davis moved, That the following recommendation be added to Section 3.6 of the Final Report: 'That the Victorian Government ensure the \$1 commercial passenger vehicle levy be used for compensation only and not administrative costs.'

**The Committee divided.**

Ayes	Noes
Mr Davis	Mr Elasmr
Mrs McArthur	Mr Barton
	Mr Gepp
	Mr Quilty
	Ms Terpstra

**Motion negated.**



# Minority report

# Minority Report of Opposition members of the Standing Committee on the Economy and Infrastructure Inquiry into the Commercial Passenger Vehicle Industry Act 2017 Reforms

## 1. Introduction

The Andrews Labor Government's changes to the taxi industry in 2017 were brutal, unfair and breached the standards expected in a modern western democracy. It is true that technology had changed and ride sharing supported by new phone based applications was a reality, yet the taxi licence market had been regulated for many, many decades by the State Government and individuals, families and small businesses had built up legitimate legal holdings. Many of these families were migrant families who worked hard in their new country and deserved to be treated better.

The High Court found that taxi licences are property in the case of *Federal Commissioner of Taxation v. Murry* (1998). The majority of the High Court held in that case that:

*The licence is property ... A taxi licence is a valuable item of property because it has economic potential. It allows its holder to conduct a profitable business and it may be sold or leased for reward to a third party.*

The regime outlined in the majority report (albeit imperfectly) points to the process whereby owners of licences were stripped of them. On 9 October 2017 the Government began issuing licences at just over \$50, effectively stripping the value of all licences held at that point.

**The Coalition members support the protection of assets and the recognition of property rights and do not support, as a matter of principle, the uncompensated confiscation of assets.** The final report of the Committee majority seeks to water down the concerns about asset destruction in the final report. The Opposition remains concerned about this asset destruction. In the Committee, we sought to remove text in the final report seeking to absolve responsibility or weaken Parliament's role in ensuring property rights are protected:

Mr Davis moved, **That the following text be deleted from page 31 of the Final Report: 'on the 'property rights' of licence holders but ultimately considers the matter would require resolution in the courts. As this is beyond the scope of the Parliament's remit, the Committee makes no further comment'**

The Committee divided.

Ayes: Mr Davis, Mrs McArthur

Noes: Mr Elasmarr, Mr Barton, Mr Gepp, Mr Quilty, Ms Terpstra

Question negatived.

The Opposition is also concerned that the Scrutiny of Acts and Regulations Committee did not sufficiently or strongly enough highlight the impact on property owners of the Commercial Passenger Vehicle Industry Act 2017. The Committee published later advice on its website, but it is our view this advice comprehensively refutes the trite answers put by Minister Jacinta Allan to SARC in response to its questions of 2017. We attach the advice to SARC, which is also referenced in Section 1.3.1 of the majority report.

## 2. Transitional package

There is no doubt the Andrews Labor Government's transitional package was inadequate and it was unfairly and chaotically administered. The Ombudsman's report commented at length on the failures of administration in the transitional funding package. Transcript and sections of the majority report show inconsistencies occurred and point to concerns by industry participants. **The Opposition moved to make it clear that the transitional funding package was unfair.** The Opposition sought to highlight these issues as follows:

Mr Davis moved, **That the following text be added to page 29 of the Final Report: 'Finding: The Committee considers that the transitional funding package was unfair.'**

The Committee divided.

Ayes: Mr Davis, Mrs McArthur

Noes: Mr Elasmarr, Mr Barton, Mr Gepp, Mr Quilty, Ms Terpstra

Question negatived.

## 3. Compensation

The compensation scheme was woefully inadequate. Table 1 of Chapter 2 of the majority report provides a summary. **The Opposition sought to insist on the insertion of the words "in both categories fifth and subsequent licences received \$0"**. It is clear this is unfair. The Coalition sought to highlight that fact.

It is also clear that Victoria's actions on licence destruction are deeply unusual for a major jurisdiction. We sought to highlight this point, but did not receive support from Labor and minor parties:

Mr Davis moved, **That the following text be added to page 19 of the Final Report: 'It is also important to note that other jurisdictions did not reduce the value of the licences to zero.'**

The Committee divided.

Ayes: Mr Davis, Mrs McArthur

Noes: Mr Elasmarr, Mr Barton, Mr Gepp, Mr Quilty, Ms Terpstra

Question negatived.

The Opposition is concerned that the Committee has been too weak to pursue key matters, Chaired as it is, by a Labor MP and supported most often by the independents on the Committee who time and time again side with Labor. They are Labor voting independents. The independents voted to install a Labor Chair, giving the Government enormous leverage and the ability to massage and manage Committee outcomes. In terms of scrutiny of the State Government, a key role of the Legislative Council, this committee has failed.

**The Opposition is of the view that, because Labor's compensation was inadequate, the State Government should urgently review its decision to strip assets from taxi licence holders and introduce a scheme that more fairly compensates them for their actual losses.**

#### 4. Re-direction of the \$1 levy from compensation to government administration

Daniel Andrews promised he would not increase taxes and charges in the 2014 State Election and yet he introduced a taxi/ridesharing levy on every commercial passenger vehicle trip, breaking his promise.

The Coalition understand the levy is now in operation and is of the view that the levy should be directed solely to compensation for taxi licence owners who had their assets removed by Daniel Andrews' Government.

Worse, as the legislation was in Parliament in 2017, Fiona Patten introduced an amendment likely drafted for her by Daniel Andrews Government that sought to allow the direction of a share of the levy to fund the government administration of commercial passenger vehicles – the bureaucracy.

##### **COMMERCIAL PASSENGER VEHICLE INDUSTRY BILL 2017, COUNCIL Friday, 23 June 2017**

**Mr DAVIS** (Southern Metropolitan)— Paragraph (ii) of Ms Patten's amendment 2 says, 'to partly fund the regulation of the commercial passenger vehicle industry'. One of the things that Treasury likes to do from time to time is to make industries self-fund, and that means the collection of resources to fund the administrative and departmental costs or any costs that are associated with a particular agency that might be associated with that particular industry and the effort at regulation. Whilst the opposition will support this, I sound a note of caution here that this could be used to fund the agency, the bureaucracy or even the department itself in part with respect to this.

**Ms PATTEN** (Northern Metropolitan)—To clarify, these two amendments, as part of the raft of amendments that I am hoping to make to this bill, also connect this bill back to the Essential Services Commission, which will have some oversight of the levy to ensure that the levy is at its lowest and is there for compensation to the transitional assistance. I have faith that having the Essential Services Commission involved in this will ensure that this levy is not misused.

**Mr DAVIS** (Southern Metropolitan)—Let me be quite clear: I think that Ms Patten has brought this in very good faith to the chamber, but the plain words here, 'to partly fund the regulation of the commercial passenger vehicle industry', make it clear that the Treasurer, who is collecting this non-hypothecated money into consolidated revenue, could disperse that for purposes other than compensation.

**Mr Mulino** interjected.

**Mr DAVIS**—No. It is actually a quite serious point about one of the amendments here. My fear is that, as Ms Patten has outlined, the Essential Services Commission activities will be partially funded by this and that the industry, if it wanted to reduce, for example, the levy at a future point, would be forced to fund those Essential Services Commission appearances according to the plain English as set out here. It might not be Ms Patten's intent, and I understand that. It might not even be the government's intent, but a future Treasurer could drive a truck through that.

Evidence heard at this inquiry from key industry participants made it clear that most in the industry do not support the diversion of levy money away from compensation to support officers or bureaucracy. Extracts are listed below and a longer transcript is attached.

**LEGISLATIVE COUNCIL ECONOMY AND  
INFRASTRUCTURE COMMITTEE**  
**Inquiry into the Commercial Passenger Vehicle Industry Act 2017 reforms**  
**Melbourne—Wednesday, 31 July 2019**

**A. WITNESSES**

Mr David Samuel, Head of Public Affairs, and  
Mr Fred Lukabyo, Chief Operating Officer, A2B Australia.

**Mr DAVIS:** I just had a question also about the levy and what the levy is spent on. The levy was originally intended to support compensation for those who had licences removed or revoked, but we now know that the licence or the levy is being used for funding the department and the officers. Do you support the use of that levy for that purpose?

**Mr SAMUEL:** Naturally we would like to see adequate compensation being paid to the industry. If we have to have a levy, then that is what we would want to see it spent on.

**Mr DAVIS:** It should be quarantined—

**Mr SAMUEL:** Yes, it should be.

**Mr DAVIS:** for the purposes of actually compensating people.

**Mr SAMUEL:** It should be spent on compensating those people who had—

**Mr DAVIS:** Not to fund bureaucracy.

**Mr SAMUEL:** No, I would not think that is appropriate.

**Mr DAVIS:** Good.

**B. WITNESS**

Mr André Baruch, President, Commercial Passenger Vehicle Association of Australia.

**Mr DAVIS:** My question is about the levy too, and I understand that the model you are proposing is a different one to an up-front fee, an annual fee, but given that we have got the levy now and that the levy is used in part to fund bureaucrats as opposed to compensation—

**Mr BARUCH:** That is just wrong, isn't it, David.

**Mr DAVIS:** Well, that is my point. That is your view.

**Mr BARUCH:** The levy was designed and put in place to help with the funding of the taxi licences that were confiscated by the government, that were devalued to zero. It slipped through the murky fine print in the legislation that this would actually go into general revenue.

**Mr DAVIS:** No, no; we opposed it, but that is another point. It is in my view—and clearly I have that view—that it is the wrong destination for that fund, however it is collected.

**Mr BARUCH:** David, it is not often that I will agree with you, particularly publicly, but in this case, 100 per cent it is the wrong thing.

**The Opposition believes the \$1 commercial passenger vehicle levy should be used only for compensation and not for government administrative costs.** We sought to insert a recommendation to this effect in the majority report, but were defeated:  
Mr Davis moved, **That the following recommendation be added to page 41 of the Final Report: 'That the Victorian Government ensure the \$1 commercial passenger vehicle levy be used for compensation only and not administrative costs.'**

The Committee divided.

Ayes: Mr Davis, Mrs McArthur

Noes: Mr Elasmarr, Mr Barton, Mr Gepp, Mr Quilty, Ms Terpstra

Question negatived.

It is disappointing that minor parties apparently support the diversions of the levy away from compensation toward administrative costs. Bringing forward collections hypothecated to compensation could help support fairer recognition of assets lost by the Andrews Government changes.

#### **5. Health impacts of taxi industry change**

The Opposition members of the Committee remain deeply concerned about the impact of the 2017 taxi industry changes on many of the participants. There is ample anecdotal evidence of significant physical and psychological health impacts, including likely suicides. The Radio National show (Not fare, Sunday 5 August 2018) pointed to a number of key cases and raised public concerns about serious health impacts of the Andrews Labor Government's taxi industry changes. We attach a link [https://abcmedia.akamaized.net/rn/podcast/2018/08/bbg\\_20180805\\_0805.mp3](https://abcmedia.akamaized.net/rn/podcast/2018/08/bbg_20180805_0805.mp3). For this reason and widespread anecdotal evidence and the concerns expressed by representative bodies from the taxi industry, the Opposition believes there should be a proper independent public health study on the health impacts of the changes to the taxi industry on its participants. We sought to move that the Victorian Government allocate resources for such a study. This was defeated:

Mr Davis moved, **That the following recommendation be added to page 27 of the Final Report: 'That the Victorian Government allocate resources for a public health study on the impact of the changes to the taxi industry on its participants.'**

The Committee divided.

Ayes: Mr Davis, Mrs McArthur

Noes: Mr Elasmarr, Mr Barton, Mr Gepp, Mr Quilty, Ms Terpstra

Question negatived.

**David Davis MP**  
Member for Southern  
Metropolitan Region

**Bev McArthur MP**  
Member for Western  
Victoria Region

**Bernie Finn MP**  
Member for Western  
Metropolitan Region

**Attachment 1**

**LEGISLATIVE COUNCIL ECONOMY AND  
INFRASTRUCTURE COMMITTEE**

**Inquiry into the Commercial Passenger Vehicle Industry Act 2017 reforms**

Melbourne—Wednesday, 31 July 2019

**MEMBERS**

Mr Nazih Elasmr—Chair

Mr Bernie Finn—Deputy Chair

Mr Rodney Barton

Mr Mark Gepp

Mrs Bev McArthur

Mr Tim Quilty

Ms Sonja Terpstra

**PARTICIPATING MEMBERS**

Ms Melina Bath

Mr David Davis

Mr David Limbrick

Mr Andy Meddick

Mr Craig Ondarchie

Mr Gordon Rich-Phillips

Ms Mary Wooldridge

Dr Catherine Cumming

**WITNESSES**

Mr David Samuel, Head of Public Affairs, and

Mr Fred Lukabyo, Chief Operating Officer, A2B Australia.

**Mr DAVIS:** I just had a question also about the levy and what the levy is spent on. The levy was originally intended to support compensation for those who had licences removed or revoked, but we now know that the licence or the levy is being used for funding the department and the officers. Do you support the use of that levy for that purpose?

**Mr SAMUEL:** Naturally we would like to see adequate compensation being paid to the industry. If we have to have a levy, then that is what we would want to see it spent on.

**Mr DAVIS:** It should be quarantined—

**Mr SAMUEL:** Yes, it should be.

**Mr DAVIS:** for the purposes of actually compensating people.

**Mr SAMUEL:** It should be spent on compensating those people who had—

**Mr DAVIS:** Not to fund bureaucracy.

**Mr SAMUEL:** No, I would not think that is appropriate.

**Mr DAVIS:** Good.

**WITNESSES**

Ms Kate Stannett, Head of Cities, Australia and New Zealand, and

Mr Richard Willder, Public Policy and Government Affairs, Australia and New Zealand, Uber.

**Mr DAVIS:** There is a levy that is imposed as part of the changes, which is imposed on taxis and on Uber and other ridesharing groups. Do you know the fate of that levy? What is collected from Uber—you might be able to tell us the amount—and do we know where it is being spent?

**Mr WILLDER:** Yes, thanks for the question. Certainly Uber drivers collect a levy on every trip that takes place on the Uber app, and it is remitted to the State Revenue Office. We do not have any additional details on exactly where it is being spent. That would be a question—

**Mr DAVIS:** So what sort of number is being paid through to the system? That would be helpful for us to know.

**Mr WILLDER:** No. I understand. I do not have an exact number.

**Mr DAVIS:** You may be able to take it on notice.

**Mr WILLDER:** Yes, I am very happy to take it on notice. Of course some of that information, because it is a \$1 levy, might be commercially sensitive, so I just want to be careful with what kind of information we provide, but I am very happy to take it on notice.

**Mr DAVIS:** Yes. The second point is: do you support that levy being used to fund the bureaucracy?

**Ms STANNETT:** The introduction of levies is something that we have seen across Australia, and while Uber does not support anything that adds cost to the travelling public, that is a decision that governments have made, and so it is not really a matter for us to make judgement on.

**Mr WILLDER:** At this point in time we are just in the business of doing as directed, making sure the levy is being remitted to the State Revenue Office.

**Mr DAVIS:** And that is occurring, obviously. Yes.

**Mr WILLDER:** Absolutely.

**Mr DAVIS:** But you support or you do not support the use of the levy to fund the transport bureaucracy?

**Ms STANNETT:** The introduction of levies that add cost to the travelling public is not something that we support. However, it is a matter that governments have introduced, and what they use it for is a matter for them.

**Mr WILLDER:** We are really not familiar with what exactly the government is doing with the revenue collected for the purpose of the levy, but we are simply in the business of collecting it.

**Mr DAVIS:** Well, I will enlighten you. The bill that went through had amendments made to it which enable not only the levy to be collected but the funding to be directed to support the bureaucracy, not just simply used for a defined period to compensate people who had lost very significantly financially.

**Mr WILLDER:** Yes. You mentioned that it is only for a defined period, and we would love to see—

**Mr DAVIS:** It is not for a defined period; that is the point.

**Mr WILLDER:** It is not for a defined period. No. Understood entirely.

**Mr BARTON:** There is no sunset.

**Mr WILLDER:** And that is something it would be terrific to see codified at some point in time in legislation—a sunset clause of some sort.

**Mr DAVIS:** Yes. That might occur more quickly if it was not diverted to fund the bureaucracy.

**WITNESS**

Mr André Baruch, President, Commercial Passenger Vehicle Association of Australia.

**Mr DAVIS:** My question is about the levy too, and I understand that the model you are proposing is a different one to an up-front fee, an annual fee, but given that we have got the levy now and that the levy is used in part to fund bureaucrats as opposed to compensation—

**Mr BARUCH:** That is just wrong, isn't it, David.

**Mr DAVIS:** Well, that is my point. That is your view.

**Mr BARUCH:** The levy was designed and put in place to help with the funding of the taxi licences that were confiscated by the government, that were devalued to zero. It slipped through the murky fine print in the legislation that this would actually go into general revenue.

**Mr DAVIS:** No, no; we opposed it, but that is another point. It is in my view—and clearly I have that view—that it is the wrong destination for that fund, however it is collected.

**Mr BARUCH:** David, it is not often that I will agree with you, particularly publicly, but in this case, 100 per cent it is the wrong thing.

**Mr DAVIS:** Well, I think it is quite often actually you do agree with me. So that is the first point. The second point is you are advising us, in a sense, to investigate the collections by a number of the larger firms.

**Mr BARUCH:** Yes.

**Mr DAVIS:** And you are saying that in your view there are a large number of rides in cases where the ride occurs and a levy is collected or is not collected—

**Mr BARUCH:** David, I am not saying that. What I am saying is that currently the deregulator has no way of knowing that because there is no requirement under the existing legislation for the number of rides that a rideshare network operator, a BSB, does to be reported. Therefore if that number is not being reported, they can report what they want to the SRO. It is self-reporting, and there is nothing to verify the accuracy of that.

**Mr DAVIS:** The SRO under its more general powers has powers to look at documents and to investigate those from whom it is collecting taxes.

**Mr BARUCH:** Yes, it does; it has the power too. Whether it chooses to is a different question that you are not asking, thankfully, because I could not answer that, but they do not have a guidance of what levels they should be looking for.

**Mr DAVIS:** So is it your view that the SRO should assure itself that it is collecting the correct amount?

**Mr BARUCH:** I would have thought that was its fundamental responsibility.

**Mr DAVIS:** And when they come here we will ask them those questions. If we do not get satisfactory answers, then you are suggesting that we should look further?

**Mr BARUCH:** I think it would be much simpler to scrap the levy and go with the registration model, as we suggested.

**Mr DAVIS:** That is not possible.

**Mr BARUCH:** I do not understand why it would not be possible. This is Parliament. You guys make the laws.



Our Ref: MP:NP:1610008

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23 May 2017

Attn: Nathan Bunt  
Executive Officer

Scrutiny of Acts and Regulations Committee Parliament  
of Victoria Parliament House, Spring Street East  
Melbourne VIC 3002

Scrutiny of Acts and  
Regulations Committee

26 MAY 2017

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**By Post and by Email: [sarc@parliament.vic.gov.au](mailto:sarc@parliament.vic.gov.au)**

*CC: The Hon. Lizzie Blandthorn (Chair)*

*The Hon. Richard Dalla-Riva (Deputy Chair)*  
*Ms Melina Bath*

*Mr Josh Bull*

*Mr Steve Dimopoulos*  
*Ms Sonya Kilkenny*  
*Mr John Pesutto*

Dear Mr. Bunt,

**RE: Commercial Passenger Vehicle Industry Bill- Scrutiny of Acts- Request for Further Scrutiny**

We write on behalf of the Victorian Hire Car Association (VHCA), a Victorian Incorporated Association pursuant to the *Incorporated Associations Reform Act 2012*. We write with reference to the proposed *Commercial Passenger Vehicle Industry Bill 2017*. Our office has been provided with a copy of the Committee's findings in relation to the above bill, as well as copies of the correspondence, dated 20 March 2017, of the Minister Responsible, the Hon. Jacinta Allan, in reply.

In our view, the reply of Minister Allan raises significant concerns which should be addressed by this Committee. Specifically, the Minister's assertions with regards to the compatibility of the proposed legislation with the Charter of Human Rights are, in our view, potentially misleading and inaccurate in important regards. These include, critically, the status of perpetual taxi licences as property, the existence of any uncertainty as to that position and the precise structuring of the legislation. We are also concerned that the case cited by the Minister in support of a proposition of law, namely that the diminution of value in a property interest is not equivalent to deprivation of property, has not been accurately described as to its import.

This gives rise to the potential that the Committee's conclusions with regards to the compatibility of the legislation with property rights specifically, and human rights generally, may be founded on incorrect assumptions.

To that end, we enclose formal advice of Mr. James Barber of counsel, briefed by the VHCA to consider the property status of perpetual taxi licences. As noted by Mr Barber, the status of existing, perpetual licences as property is uncontroversial, settled law of which there is no dispute. Similarly, the case of *Lough v First Secretary of State* [2004] 1 WLR 2557 expressly does not support the proposition for which it is put in Minister Allan's letter.

For these, and other reasons contained in Mr. Barber's advice, our considered view is that the proposed legislation cannot be considered to be other than an acquisition by revocation of property rights of perpetual taxi licence-holders. The replacement of those rights, in some instances, with the inferior new taxi licences cannot be considered compensation or an equivalent outcome. Indeed, for licence-holders who have temporarily assigned their licences to operators, the legislation would completely deprive them of all interest without even nominal compensation.

### **Other Concerns with the Proposed Legislation**

Our office has additional concerns with the proposed legislation. These include incompatibility with Australia's international obligations under a raft of international free trade agreements, which expressly prohibit confiscation or expropriation of investor property without *immediate, adequate compensation*. We understand that the government of Victoria proposes to, at a future time, provide *ex gratia* payments of partial value to existing licence-holders. However, this is not contained in the legislation or indeed in any material currently before Parliament. Whilst it is not our view that the proposed legislation is *ultra vires* or unconstitutional as the dispute resolution provisions of the USA-Australia, Korea-Australia, Japan-Australia or GATT trade agreements have not been incorporated into domestic legislation, our view is that the legislation exposes the Commonwealth to a litigation risk before international tribunals. We submit that this is a substantive factor for consideration by the Committee pursuant to its powers arising under s17 of the *Parliamentary Committees Act 2003*.

### **Outcome**

We note that the Committee has already provided a digest and received further correspondence from the Minister arising from the Bill in question. However, we submit that the abovementioned issues are matters of real and genuine concern that ought to be considered by the Committee. In particular, we are concerned that the Minister's correspondence to the Committee contained representations as to law which are, in the opinion of counsel, incorrect. We request that the Committee further consider these matters and issue a further assessment of the actual compatibility of the proposed legislation with the Charter of Human Rights.

Mann Lawyers

We further request that the Committee consider the question of the legislation's compatibility with non-expropriation obligations.

Yours Faithfully



**Nadav Praver**

Partner

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## VICTORIAN HIRE CAR ASSOCIATION INC

### OPINION

#### Introduction

1. I am briefed to advise the Victorian Hire Car Association Inc on the following questions:
  - (a) does a so-called "legacy" taxi-cab licence constitute property within the meaning of section 20 of the *Victorian Charter of Human Rights and Responsibilities* (the **Charter**)?
  - (b) if so, would the enactment of the *Commercial Passenger Vehicle Industry Bill 2017* effect a deprivation of property within the meaning of section 20 of the *Charter*?

#### Opinion

2. In my opinion, for the reasons explained below, the answer to both questions is "Yes".

#### Documents Briefed

3. I have been provided with copies of the following documents , which I have considered in forming this opinion:
  - (a) the *Commercial Passenger Vehicle Industry Bill 2017*, a Bill of the Parliament of the State of Victoria;
  - (b) the Explanatory Memorandum in respect of the Bill;
  - (c) an Alert Digest relating to the Bill published by the Scrutiny of Acts and Regulations Committee of the Parliament of Victoria, being Alert Digest No 3 of 2017;
  - (d) a letter dated 20 March 2017 from the Minister for Public Transport, the Honourable Jacinta Allan MP, to the Chairperson of the Scrutiny of Acts and Regulations Committee of the Parliament of Victoria, addressing the question of whether the human rights protected by the *Charter* are limited by the Bill.

## Reasoning

### ***Does a taxi-cab licence constitute property?***

4. Section 20 of the *Charter* provides as follows:

"A person must not be deprived of his or her property except in accordance with law".

5. There is no definition of "property" in the *Charter*. There does not appear to have been any judicial consideration of the meaning of the word "property" in the specific context of section 20 of the *Charter*, or indeed of the meaning and effect of section 20 of the *Charter* at all.
6. It is unnecessary to consider judicial definitions of the word "property" in other contexts. That is because in 1998 the High Court was able, without recourse to such definitions, to precisely identify the nature of a taxi-cab licence. In *Federal Commissioner of Taxation v Murry* (1998) 193 CLR 605, the High Court had before it the question of whether the sale of a taxi licence amounted to a sale of business or of an interest in business, so as to include goodwill or an interest in goodwill, which would in turn have attracted a concessional rate of capital gains tax under s 160ZZR(1)(a) of the *Income Tax Assessment Act 1936* (C'th).
7. In concluding that the sale of a taxi licence did not include goodwill and therefore did not attract concessional treatment for the purpose of capital gains tax, the majority of Gaudron, McHugh, Gummow and Hayne JJ said:

***"The licence is property.*** It can be sold independently of any business conducted in respect of it. In theory, the licence could have been sold in the present case for a substantial sum after its issue and before any business had been commenced" (at [62] - emphasis added);

***"A taxi licence is a valuable item of property*** because it has economic potential. ***It allows its holder to conduct a profitable business and it may be sold or leased for reward*** to a third party" (at [67] - emphasis added).

8. The taxi licence in *Murry* had been issued under the corresponding Queensland legislation, but the only feature of the licence to which the High Court thought it necessary to refer was the fact that the licence was able to be sold or leased. These features are shared with so-called "legacy" taxi-cab licences issued in Victoria under sections 143 or 143A of the *Transport (Compliance and Miscellaneous) Act 1983 (Vic)*.
9. The High Court's conclusions in *FCT v Murry* provide the answer to the question put and they do so clearly and emphatically.
10. There is no basis for the doubt that is suggested in section 2 of the Minister's letter of 20 March 2017.
11. If one were to consider judicial definitions of the word "property" in other contexts, one would arrive at the same conclusion. The most analogous provision that has attracted judicial consideration in Australia is section 51(xxxi) of the *Commonwealth Constitution*, which gives the Commonwealth Parliament power to make laws with respect to "the acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws". It has been held that laws enacted under this power must provide for just terms in order to be valid: *Johnston Fear & Kingham & The Offset Printing Co Pty Ltd v The Commonwealth* (1943) 67 CLR314.
12. Section 51(xxxi) of the *Constitution* is analogous to section 20 of the *Charter* because both provisions seek to protect the property of citizens from arbitrary or unfair expropriation at the hands of the State. It is therefore to be expected that in construing section 20 of the *Charter*, a Court would be likely to adopt a similarly wide definition of the word "property".
13. The word "property" in section 51(xxxi) of the *Constitution* has been held to be "the most comprehensive term that can be used" and extends "to every species of valuable right and interest including real and personal property, incorporeal

hereditaments ... and choses in action": *Australian Tape Manufacturers Association Ltd v Commonwealth* (1993) 176 CLR 480 at 509. It is "not to be narrowly construed": *Australian Capital Television Pty Ltd v Commonwealth* (1992) 177 CLR 106 at 197 per Dawson J. It is "to be construed liberally": *Telstra Corporation Ltd v Commonwealth* (2008) 234 CLR 210 at [43].

14. A licence that can be assigned or transferred and that carries with it the right to carry on a profitable trade is property. It has the principal features that usually characterise property:
- the right to use and enjoy;
  - the right to exclude others, in that no-one but the licence-holder or a person with the licence-holder's permission can use the licence; and
  - the right to alienate, whether permanently or temporarily.
15. Further, sub-section 143AB(b) of the *Transport (Compliance and Miscellaneous) Act 1983*, introduced in 2013, provides that a "new taxi-cab licence" (referred to below) "is not personal property". The fact that, in introducing sub-section 143AB, Parliament considered it necessary to provide that a "new taxi-cab licence" is not personal property implies a recognition by Parliament that "legacy" taxi-cab licences were indeed personal property.
16. For these reasons, a "legacy" taxi-cab licence is property.

### ***Would the Bill effect a deprivation of property?***

17. Clause 34 of the Bill provides for a new Division 13 of the *Transport (Compliance and Miscellaneous) Act 1983*. It includes proposed sub-section 360(1) which is in the following terms:

#### **"360 Taxi-cab licences**

- (1) On the commencement of section 27 of the **Commercial Passenger Vehicle Industry Act 2017** [ie what is now the Bill]-
- (a) every licence to operate a taxi-cab assigned under section 150 to an assignee within the meaning of section 150 and in force

- immediately before that commencement is **revoked** and the assignee is taken to be granted a new taxi-cab licence; and
- (b) every tax-cab licence granted under section 143 or 143A that is in force immediately before that commencement, and that has not been assigned under section 150, is **revoked** and the holder of that licence is taken to be granted a new taxi-cab licence".

(Emphasis added.)

18. Plainly, proposed section 360 would deprive all holders of taxi-cab licences granted under s 143 or 143A of their licences, whether they hold them as assignees (sub-section 360(1)(a)) or as original licensees (sub-section 360(1)(b)).
19. However, all such holders of taxi-cab licences are immediately taken to be granted a "new taxi-cab licence". How does a "new taxi-cab licence" differ from a licence granted under section 143 or 143A?
20. Section 143AB of the *Transport (Compliance and Miscellaneous) Act 1983* provides as follows:
- "143AB Nature of new taxi-cab licence**
- A new taxi-cab licence -
- (a) is a mere permission for the taxi-cab to be operated on a highway;
- (b) is not personal property;
- (c) does not vest by operation of law in any other person;
- (d) may be transferred in accordance with this Division but cannot otherwise be dealt with by the person who holds it;
- (e) cannot be assigned;
- (f) may be surrendered, suspended, cancelled or revoked in accordance with this Division."
21. Thus the effect of clause 34 of the Bill, in inserting proposed section 360 of the *Transport (Compliance and Miscellaneous) Act 1983*, would be to revoke all "legacy" taxi-cab licences, and replace them with deemed licences that, as stipulated by section 143AB(b), are not personal property.
22. To revoke a licence that constitutes property is a deprivation of property. The fact that the licence is replaced by another licence, or by the deemed granting of

another licence, does not alter this fact. This is emphatically so where the new licence deemed to have been granted does not itself amount to property.

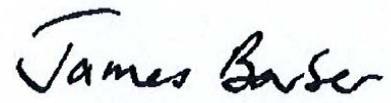
23. To take away a licence that constitutes property and to replace it with a licence that does not constitute property is to deprive the licence-holder of property.
24. Further, proposed sub-section 360(1)(a) of the *Transport (Compliance and Miscellaneous) Act 1983*, deems only the assignee of an assigned taxi-cab licence to be granted a new taxi-cab licence. The new taxi-cab licence is taken to be granted to the assignee, not the assignor. It is not at all clear that the new taxi-cab licence would revert to the assignor at the end of the term of the assignment. Depending on the terms of the assignment, it may well be that, because the whole subject-matter of the assignment will have ceased to exist, the contract of assignment may in law be regarded as frustrated, leaving the parties discharged from all future performance of the contract. That would mean that an assignor whose licence is the subject of a temporary assignment at the precise moment when clause 27 of the Bill commences would be left with nothing at all.
25. Finally, sub-section 143AB(e) provides that a new taxi-cab licence cannot be assigned. For many years the owners of "legacy" taxi-cab licences have had the right to enter what is in effect a hire or lease of their licences to other approved persons for a fee. This is referred to in the Act as "assignment" of the licence. It has proven to be a valuable right: see <http://taxi.vicc.gov.au/owners-and-operatorsa/taxi-owners-and-operators/licence-transfer-and-assignment/metropolitan-taxi-licence-assignment-prices>
26. The right to assign a taxi-cab licence temporarily for reward is therefore an important attribute of the property in a taxi-cab licence.
27. The inserting of proposed section 360 of the *Transport (Compliance and Miscellaneous) Act 1983* would be to revoke all "legacy" taxi-cab licences, and

replace them with deemed licences that by virtue of section 143AB(e), cannot be assigned.

28. For this reason as well, a "legacy" taxi-cab licence and a new taxi-cab licence are two quite different things.
29. To take away a licence that entitles the holder to assign it for reward and replace it with a deemed licence that does not entitle the holder to do so is to deprive the holder of property. That is so whether it is constituted by the deprivation of the original licence or by the effective deprivation of the right to temporarily assign for reward.
30. The Minister's letter refers to *Lough v First Secretary of State* [2004] 1 WLR 2557 as authority for the proposition that "measures resulting in a diminution in the value of property do not amount to 'deprivation'". This does not accurately reflect what *Lough* decided. *Lough* concerned a decision by the Secretary of State to grant planning permission for a 20-storey residential and commercial development. Neighbouring residents challenged the decision in the High Court alleging a breach of articles in the Human Rights Act 1998 (UK) protecting the right to private family life and home and the right to peaceful enjoyment of possessions. It was argued that the development would cause a loss of amenity and a diminution in the value of their homes. Lord Justice Pill (with whom the rest of the Court of Appeal agreed) held (at [51]-[52]) that "A loss of value in itself does not involve a loss of privacy or amenity and it does not affect the peaceful enjoyment of possessions. Diminution of value in itself is not a loss contemplated by the articles in this context. ... I do not underestimate the importance to landowners of a loss of value caused by neighbouring developments but it does not in my view constitute a separate independent basis for alleging a breach of the Convention rights involved".
31. It is important to note that the residents who brought the case in *Lough* had not been deprived of any right, valuable or otherwise. They would suffer a loss of

amenity diminishing the value of their property, but they lost no substantive right. Had they been deprived, for example, of the right to let their homes out for reward, the outcome might have been quite different. For these reasons *Lough* has nothing relevant to say about the issue of the revocation of "legacy" taxi-cab licences and their deemed replacement with "new taxi-cab licences".

32. I would be pleased to answer any questions.



J D S BARBER

Owen Dixon Chambers 8May2017

