

EXPLANATORY MEMORANDUM

TAXI AND PRIVATE HIRE CAR REGULATIONS (AMENDMENT)

The Taxi and Private Hire Car Regulations ("the Principal Regulations") are made under section 218 of the Motor Traffic Act 1990 ("the Principal Act"). The Principal Regulations provide for such matters as the conduct of taxi and private hire car drivers, obligations of licenceholders, the use of taxi meters and levels of taxi fares.

The Principal Act was recently amended by the Motor Traffic (Amendment) Act (No.7) 1990 ("the Amendment Act"). Among other matters, the Amendment Act allows licence holders who may not be able to operate their taxis or private hire cars personally to full capacity, to enter into leasing arrangements so certain other persons may also operate the vehicle. The Amendment Act provides that the licence holder, a person in respect of whom the Registrar has notice (such as a person to whom a vehicle is leased) and an employee of such persons may have the use, control and management of a vehicle.

The Taxi and Private Hire Car Regulations (Amendment) ("the Amending Regulations") makes consequential amendments to the Principal Regulations to ensure that persons operating the vehicle under leasing arrangements are also required to comply with the Principal Regulations.

The Amending Regulations have no effect on revenue.

Details of the Amending Regulations are included in the Attachment.

Minister for Finance and Urban Services

Taxi and Private Hire Car Regulations (Amendment).

Regulation 1 provides that any references in the Amending Regulations to "Principal Regulations" are to be read as the Taxi and Private Hire Car Regulations.

Regulation 2 amends regulation 4 of the Principal Regulations by inserting new subregulation (4). Regulation 4 is an interpretation provision.

New subregulation 4(4) provides that a reference to a taxi or private hire car licence holder (however described) in the Principal Regulations includes a person referred to in paragraph 31(3)(b) of the Principal Act. Paragraph 31(3)(b) refers to a person notified to the Registrar (such as a person to whom the vehicle is leased).

The effect of this regulation is to ensure that persons leasing the vehicle are required to meet the same obligations presently imposed on licence holders under the Principal Regulations.

Regulation 3 repeals regulation 9 of the Principal Regulations which prohibits unauthorised persons driving the vehicles and substitutes new subregulations 9(1) and (2) substantially to the same effect.

Subregulation 9(1) provides that the licensee or driver of a taxi or private hire car shall not allow a person who is unlicensed to drive a vehicle of that class, to drive the vehicle in a public street.

Subregulation 9(2) provides that the driver of a taxi or private hire car must not allow a person to drive his or her vehicle in a public street without the licensee's consent.

Regulation 4 makes consequential amendments to regulation 40 of the Principal Regulations which requires licensees to produce their licences to the Registrar upon request.

Paragraphs 4(a) and (b) amend subregulations (1) and (2) by omitting references to "owner" and substituting "licensee" instead.

Paragraph 4(c) adds new subregulation 40(3) which provides that in regulation 40 "licensee" does not include a person notified to the Registrar under paragraph 31(3)(b) of the Principal Act.

This regulation is necessary because a person other than the licenceholder would not be in possession of a taxi or private hire car licence.

Regulation 5 amends regulation 41 of the Principal Regulations (which requires the licence holder to produce his or her licence or certificate of registration to a prospective employee upon request), by adding the words "or a copy of the notice referred to paragraph 31(3)(b) of the Act." This ensures that where a "lessee" employs a driver, he or she is required to furnish evidence of the leasing arrangement if requested by the prospective employee, in lieu of the licence or certificate of registration which the lessee is unlikely to possess. This is consistent with the underlying policy of the Principal Regulations to ensure that a lessee is also required to comply with those provisions.

Regulation 6 amends subregulation 43(2) of the Principal Regulations by omitting "owner" and substituting "the person to whom the label is issued". Regulation 43 requires the Registrar to issue a label for a taxi or private hire car which is not registered under the Principal Act. This amendment ensures that the person to whom the Registrar issues the label is responsible for affixing it to the vehicle.

Regulation 7 amends regulation 44 of the Principal Regulations (which deals with claiming a vehicle after its driver has been arrested), by adding at the end "or licensee". Thus, where a vehicle is impounded by the police upon the arrest of its driver, the owner or licensee within the meaning of new subregulation 4(4), may claim the vehicle.

Regulation 8 makes further consequential amendments to the Principal Regulations as set out in Schedule 1 of the Amending Regulations.

Regulation 9 makes formal amendments to a number of regulations of the Principal Regulations as set out in Schedule 2 of the Amending Regulations to correct gender specific references.

Schedule 1 relates to regulation 8 of the Amending Regulations and amends regulations 25, subregulations 37(1) and (3) and regulation 42 of the Principal Regulations to omit references to the "owner" and substitute "licensee" instead.

Schedule 2 relates to regulation 9 of the Amending Regulations and sets out a number of regulations of the Principal Regulations to which amendments relating to gender are effected.