

Upcoming law changes for approved taxi organisations



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Glossary

ATO	Approved taxi organisation
Director	The Director of Land Transport (see below)
LTA	Land Transport Act 1998
OLR	Land Transport Operator Licensing Rule 2007
PSL	Passenger service licence – a category of TSL
TSL	Transport service licence
P endorsement	Passenger endorsement
WTLR	Land Transport Work Time and Logbooks Rule 2007

The Director

Throughout this document, the term 'the Director' is used in connection with certain activities and powers. In general terms, this will refer to Land Transport NZ or the staff of Land Transport NZ. For example, if an approved taxi organisation is required to notify the Director of changes to operating rules, in practice the notification is made to the relevant staff in the nearest Land Transport NZ regional office.

Introduction

On 1 October 2007, new legal requirements for operating an approved taxi organisation (ATO) will be introduced.

Anyone in charge of an ATO will be required to have adequate knowledge of relevant law and practice, and responsibilities of ATOs in respect to members and drivers will be strengthened.

This guide provides a summary of the new requirements, as well as covering some existing responsibilities that you should be meeting currently.

Law changes affecting ATOs

To ensure your knowledge of law and practice remains current, it is recommended that you regularly check for updates to legislation. Upcoming law changes affecting the operation of an ATO include:

- Land Transport Operator Licensing Rule 2007 (the majority of ATO requirements can be found in section 8)
- Land Transport Work Time and Logbooks Rule 2007
- amendments to the Land Transport Act 1998 (agreed by the government in 2005).

Most new requirements are due to come into effect on 1 October 2007. All relevant legislation can be viewed online at www.legislation.govt.nz. To assist you to check relevant parts of the legislation, this guide includes legal references where appropriate. We also recommend you seek legal advice if making important business decisions based on this or any other legislation.

New certificate of knowledge, law and practice for ATOs (CKLP)

(Reference: OLR 8.3)

Land Transport NZ is introducing a certificate of knowledge, law and practice (CKLP) for ATOs. From October 2007, at least one person in control of a new ATO will be required to hold the ATO CKLP.

However, a person in control of an ATO who has been notified to the Director of Land Transport before 1 October will be considered to hold the CKLP for ATOs already.

If the Director has reasonable grounds to believe that a person in charge of an ATO does not have adequate knowledge of laws and practices to ensure the ATO operates safely, they can be required to sit (or re-sit) the ATO CKLP test.

Operating rules

Rules to be followed by an ATO's members and drivers must be approved by the Director before the ATO can begin operating. Land Transport NZ can provide samples and a checklist to assist ATOs with developing ATO rules, if required.

If an ATO wants to change its rules, changes must be approved by the Director before they can take effect.

Approval of an ATO's rules or rule changes will only be given if the Director is satisfied that these provide the ATO with adequate control over its members and drivers.

An ATO must have processes in place to ensure that its members and their drivers comply with the approved rules at all times.

Level of service

(Reference: OLR 8.5)

Unless exempted by the Director, an ATO must operate a 24 hours a day, seven days a week service. This means that your ATO must be able to take bookings and provide a taxi service 24 hours a day, seven days a week. You must have a telecommunications system by which bookings can be made and by which taxis can be dispatched.

The public must be able to contact your ATO using a telephone number that is published in the 'White pages' of the telephone directory covering the area (or areas) in which your ATO operates. From 1 October, where a number is not currently advertised in the telephone directory, it must be advertised there at the earliest opportunity.

Notifying changes

(Reference: OLR 8.5(1) (j and k))

ATOs must notify the Director within 14 days of any change to:

- the person in control of the ATO
- the ATO's business address or telephone number.
- the areas in which the ATO operates

Passenger service licences

(Reference: OLR 8.5(1) (a))

An ATO must ensure that all members operating a taxi hold a passenger service licence (PSL). In addition, if a driver is not employed by the taxi operator, it is likely that they will require a PSL in their own right, eg a contract driver, or a driver leasing or renting the taxi from someone else.

A PSL is not normally required when the driver of a taxi is employed by the taxi operator, eg under a written employment agreement, working for some form of payment, including wages, salary, commission or piece rates.

50/50 or 60/40 'splits' are usually joint ventures and both parties are likely to require a PSL unless one of the parties is employed by the other, ie a contract for service exists that meets all the requirements for an employment relationship (see table 1).

From 1 October 2007, it will be an offence for an ATO to allow someone to operate a transport service without a PSL. If convicted, an ATO can be fined up to \$25,000.

Table 1 shows typical characteristics of an employment relationship between employer and employee versus a contract for services involving a self-employed contractor.

Table 1 Typical characteristics of an employment relationship and a self-employed contractor

Employment relationship	Self-employed contractor
Both parties wish to form an employment relationship, and this intention is shown in any written agreement or correspondence and/or by the behaviour of the parties involved	The intention of the parties to the contract is not to form an employment relationship, and the actual nature of the relationship reflects this
The employer or their agent controls the hours worked	The contractor controls how and when work is done
The employer profits from the enterprise (and is liable for any losses)	The contractor profits directly from the enterprise (and is liable for any losses)
The employer deducts ACC premiums and PAYE tax on behalf of the employee	The contractor pays any tax, ACC and insurance directly
The employer supplies materials for the work and owns (or leases) any equipment needed	The contractor supplies equipment and materials
The employee is bound to one employer at a time and is expected not to compete or offer his or her skills to competitors of the employer	The contractor is free to accept similar work from a number of sources at the same time
The employer or their agent has the power to hire and fire	The contractor can choose who does the job and can hire other people without approval from the other party

More detailed information on employment arrangements can be found on the Employment Relations Service website at www.ers.govt.nz/factsheets/ or by calling on 0800 20 90 20.

In assessing whether a PSL is required, Land Transport NZ will consider criteria shown in table 1 as well as the adequacy of any written employment agreement and whether the minimum wage is being paid to the employee. Land Transport NZ staff can require an operator or driver to provide a wide range of information, including contracts, wages and salary records and bank statements when assessing the need for a PSL.

If you are unsure about the nature of a driver’s employment, contact the Employment Relations Service (Department of Labour) on 0800 20 90 20 or seek independent legal advice.

Display of TSL number and ‘certificate of responsibility’

From 1 October 2007, most vehicles operating under a PSL, including taxis, must display the TSL (PSL) number of the licence holder.

- The TSL number must be displayed on both forward doors so it can be seen by a person standing next to the vehicle.
- The licence number needs to have the letters TSL before it, eg TSL 1234567.
- The numbers need to be printed in an easy-to-read typeface on a contrasting background.
- The size of the lettering must be at least 48 points (depending on the typeface, you will need to use letters that are at least 11 mm in height).

Where a taxi is operating under another PSL number (eg a contract driver), the driver must carry a 'certificate of responsibility' with them. They must present this to an enforcement officer on request as evidence of the PSL number that the vehicle is being operated under at that time.

Figure 1 Certificate of responsibility

CERTIFICATE OF RESPONSIBILITY

Pursuant to clause 2.4 of *Land Transport Rule: Operator Licensing 2007* the following records the details of responsibility in relation to the operation of the vehicle below for the period specified in this certificate. Any person or company named in this certificate as a person or company accepting responsibility for the operation of the vehicle may be prosecuted and may incur demerit points for any offence in relation to the use of this vehicle.

1. Particulars of vehicle:

Registration No: _____ Make: _____ Model: _____

2. Particulars of registered owner:

Name: _____

Address: _____

Owner's Transport Service Licence Number (if applicable): _____
and Type: _____

3. Particulars of person/company accepting responsibility:
(If company, show company name and name of person authorised to complete this certificate on behalf of the company)

Name: _____

Address: _____

Name of person acting on behalf of company: _____

Position: _____

Transport Service Licence Number of person/company accepting responsibility:
_____ Type: _____

4. Period of operation/Validity of certificate:

From Date: _____ To Date: _____

5. Signed for and on behalf of the parties in 2. and 3. above: _____

Registered owner (2): _____ Date: _____

Hirer/Borrower (3): _____ Date: _____

This certificate must be retained by the registered owner/s of the vehicle for a period of not less than 12 months after the last day to which it relates, and must be produced on demand by an enforcement officer. Failure to complete all sections or the entering of false or incorrect information may invalidate this certificate.

A copy of this certificate must be produced by the driver of the hired or borrowed vehicle when demanded by an enforcement officer.

Drivers

(Reference: OLR 8.5(1) g, h and i)

An ATO must have processes in place to ensure that all drivers under the ATO (including members, drivers employed by members and drivers employed by the ATO itself):

- maintain adequate knowledge of the ATO's operating area and hold an area knowledge certificate (AKC) where required (see pages 8–9)
- are able to communicate adequately in English
- hold a current driver licence and P (passenger) endorsement and a current identification card.

Under immigration law, a person who is not a New Zealand citizen can generally only work in New Zealand if they hold residency or a valid work permit. ATOs should regularly remind members of this condition.

Work permits will often restrict the circumstances in which the holder can work, so check these conditions carefully before employing someone. For more information, visit the Immigration New Zealand website at www.immigration.govt.nz.

Driver Check

Land Transport NZ provides a service called Driver Check that notifies employers (or others) when a person's driver licence status changes, eg licence is suspended or the person is disqualified. More information can be found at www.drivercheck.landtransport.govt.nz.

Land Transport NZ is developing an online reference tool for transport operators known as TORO (Transport Organisation Register Online).

ATOs will be able to sign up to TORO to maintain their registers online and receive electronic advice on their drivers and vehicles, including early advice on expiry dates for driver and vehicle licences and changes in licence status. In many ways, this will complement the existing Driver Check system.

More information on TORO will be available later in 2007.

Area knowledge certificates

(Reference: OLR 4.13)

ATOs must ensure that taxi drivers accepting hires in the following areas hold area knowledge certificates (AKCs) for those area(s).

Figure 2 Area knowledge certificates required in New Zealand



Drivers operating in areas other than those listed above will not require AKCs from 1 October 2007. However, ATOs in these areas are still legally required to ensure drivers have adequate area knowledge of the area in which they are operating.

Even if a driver holds an AKC, it does not necessarily mean that their knowledge of the ATO's operating area remains current. ATOs must have a programme in place to ensure that drivers' knowledge of its operating area remains up to date over time.

Drivers operating in Auckland and Wellington

Drivers operating in Auckland and Wellington are required to hold all AKCs for the wider area, now known as either *Auckland metropolitan* or *Wellington metropolitan*.

Drivers who have been driving in these cities since before 1 October 2006 and who can provide their ATO with evidence that they hold at least one of the AKCs for the area will be considered to hold all AKCs.

Drivers who have been driving taxis in Auckland or Wellington for less than 12 months (as at 1 October 2007) will have until 1 April 2008 to gain the AKCs that they cannot provide evidence of already holding. Alternatively, they could complete the new metropolitan (Auckland or Wellington) test after 1 October 2007 but before 1 April 2008.

ATOs have a responsibility to ensure drivers operating in Auckland and Wellington meet these requirements. It is strongly recommended that copies are made of evidence provided by each driver of any AKC held.

Driver misconduct

(Reference: OLR 8.5(1) (l and m))

ATOs must report to the Director as soon as reasonably practicable but not later than 48 hours after any of the following events occur:

- the full name and driver licence number of a driver who is a member, or is employed by a member, of an ATO and whose membership or employment has been terminated because of improper behaviour, including, but not limited to, violence, assaults, sexual offences or driving while under the influence of alcohol or drugs
- any complaints against the ATO or any of its members or its drivers that are of a serious nature, including improper behaviour such as violence, assaults, sexual offences or driving while under the influence of alcohol or drugs; together with any follow-up action that has been taken or is being taken to address each complaint.

Required registers

(Reference: OLR 8.5(1) (e))

An ATO will be required to maintain a number of registers, which must be produced to enforcement officers on request (within a reasonable timeframe).

The required registers include:

1 a register of

- all members of the ATO who hold PSLs, including names, details of PSL numbers and vehicles operated
- all drivers who are members of the organisation or are employed by members of the ATO or by the ATO itself (see pages 4–5 for more detail on employment relationships) – the information kept must include the driver's name, driver licence number and the AKCs held by the driver, where these are required
- the unique fleet numbers (vehicle numbers) that have been assigned by the ATO to each vehicle operating under the ATO together with the registration plate number of each of these vehicles

- 2 a register of complaints that, as far as practicable, contains the following information
- the name and position of the person within the ATO who received the initial complaint
 - the name, address and contact telephone number of the person making the complaint
 - the date, time and location of the event or issue relating to the complaint
 - the name or description of the person complained of
 - details of what the complaint was about
 - details of the ATO's response to the complaint and any action taken
 - how the complainant was notified of the ATO's response to the complaint and the date on which this took place
 - the name and position in the ATO of the person who took action in response to the complaint (if different to the person who took the initial complaint).

Other recording requirements

(Reference: OLR 8.5(1) (o))

From 1 October 2007, ATOs must record the log-on and log-off times (start and finish times) of every driver who is driving a taxi under the ATO. Log-on and log-off times will be the times at which a driver starts or finishes 'work time' when driving a taxi in a taxi service (refer to pages 12–13 for a definition of work time).

These records must be retained for at least 12 months and made available to an enforcement officer on demand during normal business hours.

Signage

(Reference: OLR 8.5(1) (q, r and s) & LTAA 30Q)

The term signage includes an operator's name, business locations, contact number, logo (including colour) and roof sign.

ATOs may operate more than one brand name or signage (and corresponding fare structure – see below) provided that they target different markets.

To be approved by the Director, new signage must be sufficiently distinguishable from the signage of other ATOs operating in the same area.

Taxis operating for an ATO must only display the latest signage approved by the Director for that ATO. ATOs must ensure members stop displaying signage that has been replaced by new or altered signage.

From 1 October 2008, information in Braille must be displayed on the inside of the front passenger door in a form approved by the Director. This will include the ATO name and contact number, and the vehicle's fleet number.

Fare schedules

(Reference: OLR 8.6)

Taxis must only display the fare schedule that has been most recently registered with the Director. The appearance of fare schedules is set out in law, including the size of the schedule itself and the size of the text that must be used. The format for fare schedules is shown in figure 3.

Figure 3 Extract from Land Transport Rule: Operator Licensing 2007 Schedule 2

Schedule 2 Display of operator or taxi information

For the purposes of this Schedule, information to be displayed must use Times New Roman or Arial, or an equivalent plain font.

1. Fare schedule to be displayed on outside of taxis (*Reference: OLR 4.7*)

(a) Minimum dimensions of sign

- 29.5 cm x 6 cm.

(b) Minimum sizes and style of lettering

- 'MAXIMUM FARES': 30 point, all capitals, bold;
- 'Notified to the Director of Land Transport [Month/Year]': 30 point, normal;
- 'FLAGFALL': 30 point, all capitals, bold;
- 'TARIFF 1' and 'TARIFF 2': 30 point, all capitals, bold;
- 'Waiting time' and cost: 30 point normal;
- All other lettering: 18 point normal.

(c) Sample layout of diagram (not actual size required)

MAXIMUM FARES: Notified to the Director of Land Transport [Month/year]		
FLAGFALL	\$X.XX	[Record here details of any multiple hire discounts and any other charges]
TARIFF 1	\$X.XX per km	
TARIFF 2	\$X.XX per km	
Waiting time	XXc per minute	
Tariff 1 applies between [time] and [time] Tariff 2 applies between [time] and [time]		
Member of [ATO name]		[Record here if GST is not charged]

2. Fare schedule and complaints information to be displayed inside taxis
(not actual size required) (*Reference: OLR 4.8*)

If you have a complaint about the operation of this taxi service, contact either: <i>Name and telephone number of approved taxi organisation or address and telephone number of the nearest Land Transport New Zealand office.</i>	[In this space, give details of all fares and charges and discounts for multiple hires and the date of fare registration.]	[Display unique fleet number as assigned by ATO.]
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(a) Minimum size of sign

- 29.5 cm x 6 cm.

(b) Minimum size and style of lettering

- 16 point normal.

Note: if the fare schedule indicates that GST is included in the fares, then all taxi operators under the ATO must be registered for GST. This is a requirement of Inland Revenue. The Inland Revenue booklet *IR 272 Taxes and the taxi industry* states 'Taxi operators who charge GST in their fares must be registered for GST. This should be clearly indicated on the fare schedule displayed. This rule applies even if the taxi operator's turnover is less than \$40,000 – they must still file GST returns to Inland Revenue.

Fare receipts

(Reference: OLR 3.3 93 and 5)

A taxi driver must supply a receipt if a passenger requests one. ATOs must ensure that all members and their drivers are aware of, and comply with, this requirement, which applies to all receipts issued regardless of whether the receipt is machine printed or hand written.

The minimum information that must be included on the receipt is:

- the fare
- any special charges that apply
- the driver's unique identifier as it appears on his/her identification card
- the vehicle's registration plate number
- the operator's GST number (if GST is charged) – see above
- the name of the ATO
- the date of the hire.

If the receipt is also a tax invoice, then Inland Revenue requirements for tax invoices will also apply. Information on the requirements for tax invoices can be found at www.ird.govt.nz/gst/records/tax-invoices/.

New work time and logbook requirements

(Reference: LTA s2(1) (a to e), WTLR 2.1 (3))

To improve fatigue prevention, new requirements for managing and recording hours worked will be introduced from 1 October 2007.

Work time

The main change is that there will no longer be any distinction between time spent driving and time spent working. All time spent performing work-related activities will be counted as 'work time'.

Work-related activities include:

- driving
- loading and unloading
- vehicle maintenance and cleaning (other than unpaid cleaning performed outside of working hours)
- administration and recording
- any paid employment (whether transport-related or not).

Work time for a taxi driver also includes time spent:

- on a taxi stand
- cruising for hire
- carrying out administrative work.

Most commercial drivers are required to take a minimum half-hour rest break after 5½ hours of work time.

However, because taxi drivers undertaking short fares normally have unscheduled breaks while waiting for the next fare, they can work for 7 hours before taking a minimum half hour rest break. (A short fare is a single fare around a city or town in which the distance driven between where the passenger(s) was picked up and where they were dropped off is less than 100 km.)

Drivers must work for no more than 13 hours (a 'cumulative work day') in any 24-hour period before taking a break of at least 10 hours (as well as the required 30-minute breaks during work time).

If a taxi driver accepts a fare of more than 100 km, or does other work-related driving within the cumulative work day, then they must take a 30-minute break after the standard 5½ hours that applies to other commercial drivers.

Drivers can work a maximum of 70 hours in any 'cumulative work period' counted from the last 24-hour break taken (eg the last day off).

Rest time will be:

- any time that is not work time
- at least 30 minutes in duration
- not spent in a moving vehicle associated with work.

To qualify as rest time, **all three** of the above conditions must be satisfied.

Logbooks

From 1 October 2007, new simplified logbook formats will be introduced. There are two types: general and taxi (drivers can use either version).

Old logbook forms cannot be used after 1 July 2008.

Land Transport NZ's *Work time and logbooks* guide has more information. Visit www.landtransport.govt.nz/commercial or call 0800 699 000 for a copy.

Chain of responsibility

(Reference: LTAA Part 6C)

From 1 October 2007, new 'chain of responsibility' provisions can be applied to ATOs and taxi operators, who must ensure that their requirements do not cause drivers to break the law.

Specifically, you or your members can be convicted and fined up to \$25,000 if anyone knew or should have known that their action (or lack of action) would cause a driver to:

- exceed speed limits
- exceed work time requirements
- not have rest breaks
- fail to maintain their logbook.

Other categories of passenger service using small passenger service vehicles

From 1 October 2007, there will be four categories of passenger service that use small passenger service vehicles:

- taxi
- shuttle
- private hire
- other unspecified services.

A vehicle can be used for more than one category of passenger service, as long as the relevant vehicle and service requirements relating to each category are complied with. For example, if a vehicle is used as both a taxi and a shuttle, it must comply with all shuttle requirements and restrictions when used as a shuttle.

Shuttle

A shuttle service:

- 1 uses small passenger service vehicles that were originally designed to carry no fewer than eight persons and no more than 12 persons (including the driver)
- 2 transports passengers who must begin or end their journey at an airport, a bus or ferry terminal, or a railway station (these are the only places that shuttles can be operated from or to).

In order to operate a small passenger service vehicle in a shuttle service, both conditions must be satisfied.

There are specific signage requirements for vehicles used in a shuttle service, including signs that **must** or **must not** be displayed and carriage of a fare schedule. When being operated in a shuttle service, the vehicle must meet these requirements. Shuttles cannot 'cruise for hire'.

See Land Transport NZ's *Hire standards* booklet or refer to section 5 of the OLR for the specific requirements for shuttle services.

Private hire

A private hire service:

- 1 uses a small passenger service vehicle, ie a motor vehicle that has been designed or adapted to carry 12 or fewer persons (including the driver)
- 2 carries passengers for hire or reward
- 3 is pre-booked for an agreed itinerary, and for a price agreed at the time of booking.

In order to operate a small passenger service vehicle in a private hire service, all three conditions must be satisfied.

There are specific signage requirements for vehicles used in a private hire service, including carriage of information on the operator of the vehicle and signs that cannot be displayed. When being operated in

a private hire service, the vehicle must meet these requirements. Private hire vehicles cannot 'cruise for hire'. See Land Transport NZ's *Hire standards* booklet or refer to section 6 of the OLR for the specific requirements for private hire services.

Before commencing either a shuttle or private hire service, the service must first be registered with the Director. If an ATO operates either of these services under a PSL that is held by the ATO and the drivers driving in these services are employees of the ATO, then the ATO can register these services. If this does not apply, then the operators of each of these services must register the services with the Director individually.

As existing shuttle and private hire services are currently operating under an exemption to taxi requirements, to remain in operation they must be 're-registered' with Land Transport NZ prior to 1 October 2007. All existing services that Land Transport NZ is aware of will be contacted before 1 October 2007 with information on re-registration of services. There will be no charge for re-registration of existing services.

Other services using small passenger service vehicles

A category for other services using small passenger service vehicles has been created to allow these vehicles to be used in specific situations, such as the provision of contracted public transport services. These services will all be individually registered with and approved by Land Transport NZ before they can begin operating. Conditions related to signage and information that must be carried in the vehicle will be stated as part of the approval.

If you want to know more about other services using small passenger service vehicles, contact Land Transport NZ's call centre on 0800 699 000.

Our contact details

For general enquires, or more information about Land Transport New Zealand, please email

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Call centres

General enquiries 0800 699 000
Driver licensing 0800 822 422
Road user charges 0800 655 644
Motor vehicle registration 0800 108 809
Overdimension permits 0800 683 774