

Ministerial Directions
for the operation of the
Bass Strait Passenger Vehicle Equalisation Scheme

Approved by the Minister for Transport and Regional Services
The Honourable John Anderson
1 September 2002

Minor amendments approved by the Departmental Secretary
Michael Taylor
21 December 2007

Amendments approved by the Minister for Infrastructure, Transport, Regional Services and Local
Government
The Honourable Anthony Albanese
June 2008

1. Interpretation

1.1 In these Directions unless inconsistent with the context or subject matter or unless a contrary intention appears:

- (a) *“accompanies” or “accompanied”* means booked on a Bass Strait crossing on or about the same date of departure, and includes the carriage of an eligible passenger and an eligible passenger vehicle by different vessels;
- (b) *“Auditor”* means a person who is a member of the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants or a person registered as a company auditor or a public accountant under a law in force in a State or Territory and who is not a member or a public officer of the Service Operator;
- (c) *“Bass Strait crossing”* means a direct sea voyage between a port in Tasmania and a port on the Australian mainland (a northbound crossing), or between a port on the Australian mainland and a port in Tasmania (a southbound crossing);
- (d) *“Bass Strait service”* means a commercial shipping service engaged in the carriage of passengers and/or passenger vehicles on a Bass Strait crossing;
- (e) *“Bicycle”* means a pedal driven vehicle;
- (f) *“King Island service”* means a Bass Strait service specifically engaged in the carriage of passenger vehicles and freight across Bass Strait between King Island and the mainland;
- (g) *“Bureau”* means the Bureau of Infrastructure, Transport and Regional Economics;

- (h) “*caravan*” means a vehicle towed by an eligible passenger vehicle and designed and constructed primarily to provide sleeping accommodation;
- (i) “*Claim for reimbursement*” means a claim made by:
- (i) a *Service Operator* under clause 9, for the amount of *rebate* deducted from an *eligible passenger’s* vehicle fare or paid to an *eligible passenger* under clause 7; or
 - (ii) an *eligible passenger* under clause 10, for the amount of *rebate* determined under clause 8;
- (j) “*Deputy Secretary*” means the person for the time being performing the duties of the position of Deputy Secretary to the Department, or his or her delegate;
- (k) “*Department*” means the Commonwealth Department administered by the Minister responsible for transport.
- (l) “*driver*” means the adult passenger nominated as the driver of the *eligible passenger vehicle* by the person making the relevant booking with the *Service Operator*;
- (m) “*eligible passenger*” means a passenger accompanied by an *eligible passenger vehicle* on a Bass Strait service being the *driver* of that passenger vehicle, and includes an *eligible person*;
- (n) “*eligible person*” means:
- (i) a *driver* who travels on a direct commercial airline service between King Island and a place on the Australian mainland (a northbound crossing) or between a place on the Australian mainland and King Island (a southbound crossing) while their passenger vehicle is carried in the same direction of travel on a King Island service on or about the same day of travel;
 - (ii) or a *driver* with a *medical condition* who travels on a commercial airline service between;
 - Melbourne and Devonport (a southbound crossing) or between Devonport and Melbourne (a northbound crossing); or
 - Sydney and Devonport (a southbound crossing) or between Devonport and Sydney (a northbound crossing); or
 - Flinders Island and a place on the Australian mainland (a northbound crossing) or between a place on the Australian mainland and Flinders Island (a southbound crossing)

while their passenger vehicle is carried in the same direction of travel on a Bass Strait service on or about the same day of travel;

- (o) “*eligible passenger vehicle*” means a passenger vehicle which accompanies an eligible passenger on a *Bass Strait service*, or in

the case of a *King Island service* the vehicle booked to travel by an *eligible person*;

- (p) “*gross fare*” means the amount charged by a *Service Operator* for the carriage of an *eligible passenger vehicle* prior to the deduction of a *rebate*;
- (q) “*medical condition*” means a condition, certified by a medical practitioner, that prevents a *driver* from travelling comfortably by sea for medical reasons;
- (r) “*medical practitioner*” means a person registered or licensed as a medical practitioner under a State or Territory law that provides for the registration or licensing of medical practitioners.
- (s) “*motorcycle*” means a motor vehicle which has less than 4 wheels and is steered by means of handle bars;
- (t) “*motorhome*” means a road vehicle designed and constructed primarily to provide sleeping accommodation for the number of occupants that the vehicle is designed to carry. The term *motorhome* will be used to also refer to a campervan.
- (u) “*motor vehicle*” means a registered motor vehicle that uses or is designed to use volatile spirit, steam, gas, oil, electricity or any other power (not being human or animal power) as the principal means of propulsion;
- (v) “*one-way trip*” means a booking for either a northbound or southbound *Bass Strait crossing*;
- (w) “*passenger vehicle*” means a *motor vehicle* or *bicycle* designed for the carriage of passengers, and includes:
 - (i) a motor car, van, utility, four-wheel-drive, or station wagon;
 - (ii) a *motorhome*;
 - (iii) a minibus, coach, or bus, being a motor vehicle equipped to seat more than 8 adult persons; and
 - (iv) a *motorcycle*;
- (x) “*rebate*” means the amount applicable to an *eligible passenger vehicle* determined in accordance with Schedule 1 and:
 - (i) deducted from the vehicle fare of an *eligible passenger* by a *Service Operator* in accordance with paragraph 7.3(a) or (b); or
 - (ii) paid to an *eligible passenger* by a *Service Operator* in accordance with paragraph 7.3(b); or
 - (iii) reimbursed directly to an *eligible passenger* in accordance with clause 8;
- (y) “*round trip*” means a booking for both a northbound and southbound *Bass Strait crossing*;
- (z) “*Secretary*” means the person from time to time occupying the position of Secretary to the Department, or his or her delegate;

- (za) “*second rebate*” means the rebate paid by a *Service Operator* to a passenger under paragraph 7.3(b) in relation to the return leg of a round trip to or from King Island;
- (aa) “*Service Operator*” means a person operating a *Bass Strait service* or a *King Island service* and includes, for the purposes of clause 7, an agent of that person;
- (bb) “*the Scheme*” means the enhanced Bass Strait Passenger Vehicle Equalisation Scheme introduced from 1 September 2002.

1.2 Words importing the singular include the plural and words importing the plural include the singular.

1.3 Words importing a person include a partnership and a body whether corporate or otherwise.

2. Aim

2.1 The aim of *the Scheme* is to reduce the cost of seagoing travel for *eligible passengers*.

3. Administration of the Scheme

3.1 Subject to this clause, *the Scheme* will be administered in accordance with these Directions by the *Secretary*.

- (a) The Secretary may make arrangements with a third party organisation (*Agent*) to assist in the administration of the Scheme.

3.2 A claim for reimbursement is to be determined by the *Deputy Secretary*.

3.3 The *Secretary* may not delegate the power to review a determination under clause 14.

4. Date of Effect

4.1 *The Scheme* applies to the provision of a rebate to an *eligible passenger* who is booked to travel on a Bass Strait passenger service or Bass Strait vehicle service.

5. Scope of the Scheme

5.1 A *rebate* shall only be available in respect of travel undertaken by an *eligible passenger*.

5.2 The *rebate* will be the amount specified in Schedule 1 as applicable to the relevant type of *eligible passenger vehicle* or *eligible passenger vehicle* towing a *caravan*.

6. Eligibility

6.1 The following shall not be regarded as *eligible passenger vehicles*:

- (a) prime movers;
- (b) vehicles carried on other vehicles or trailers;
- (c) trailers;
- (d) any vehicle charged a freight rate by a *Service Operator* other than an *eligible passenger vehicle* carried by a *King Island service*.

7. Provision of a *Rebate* to an *Eligible Passenger* by a *Service Operator*

7.1 A *rebate* provided by a *Service Operator* to an *eligible passenger* shall take the form of a reduction to the passenger's vehicle fare.

7.2 Upon taking, or amending a booking, for the carriage of a passenger on a *Bass Strait crossing*, a *Service Operator* shall determine whether the passenger is an *eligible passenger* for the purposes of *the Scheme*.

7.3 Where a *Service Operator* determines that a passenger is an *eligible passenger*, the operator shall:

- (a) in all cases except those of a *King Island service*-concurrent with the payment of the booking, deduct from that person's *passenger vehicle* fare a *rebate* determined in accordance with Schedule 1; and
- (b) in the case of a *King Island service*-concurrent with the payment of the booking, deduct from that person's *passenger vehicle* fare a *rebate* for a *one-way trip* determined in accordance with Schedule 1. If the payment of the booking is for a *round trip*, the operator shall defer to a later date determining whether the passenger is an *eligible passenger* in relation to the return leg. If the determination at that later date is that the passenger is an *eligible passenger* in relation to the return leg, the operator shall pay the passenger an amount (*the second rebate*) equal to the rebate for a *one-way trip* determined in accordance with Schedule 1.

7.4 The operator must not defer the determination under paragraph 7.3(b) in relation to the return leg to a date later than 30 working days after the passenger has provided the operator with evidence of completion of the *round trip*.

7.4A An *eligible passenger* who wishes to claim the *second rebate* under paragraph 7.3(b) from the operator must do so within 6 months after completion of the *round trip*.

- 7.5 Where a booking, for which a *rebate* has been deducted from the passenger *vehicle* fare, is amended so that:
- (a) the type of *eligible passenger vehicle* accompanying the *eligible passenger* changes; or
 - (b) the type of booking changes from a *one-way trip* to a *round trip*, or from a *round trip* to a *one-way trip*;

the *Service Operator* shall determine the amount of *rebate* payable in respect of the amended booking in accordance with Schedule 1.

- 7.6 Where a *rebate* is determined by the *Service Operator* under subclause 7.5, and that *rebate* differs to the amount of *rebate* previously applied to the *eligible passenger's passenger vehicle* fare, the Operator shall:

- (a) in the case where the amended *rebate* amount is greater than the *rebate* previously applied:
 - (i) deduct the difference from the passenger's *passenger vehicle* fare;
 - (ii) issue documentation which reflects the changed circumstances of the booking (including the *rebate* provided); and
 - (iii) amend the information maintained under clause 15; or
- (b) in the case where the amended *rebate* amount is less than the *rebate* previously applied:
 - (i) request a payment, equal to the difference, from the person nominated at the time of the amendment, as the recipient of the *rebate*;
 - (ii) upon payment of the required amount, issue documentation which reflects the changed circumstances of the booking (including the *rebate* provided); and
 - (iii) amend the information maintained under clause 15.

8. *Provision of a Rebate to an Eligible Passenger by the Department or its Agent*

8.1 Where a passenger has not received a rebate from a *Service Operator* in the form of a direct reduction to his/her *passenger vehicle* fare in accordance with clause 7, or a *second rebate* in accordance with paragraph 7.3(b), the passenger may, in accordance with clause 10, claim a rebate directly from the Department or its Agent.

8.2 On receipt of the claim, the *Deputy Secretary* shall determine whether the claimant is an *eligible passenger* for the purposes of *the Scheme*.

8.3 Where the *Deputy Secretary* determines that the claimant is an *eligible passenger* and the claim is in accordance with the requirements of clause 10, a *rebate*, determined in accordance with Schedule 1, shall be paid to the *eligible passenger*.

9. *Claim for Reimbursement by a Service Operator*

9.1 A *claim for reimbursement* by a *Service Operator* shall be submitted to the *Deputy Secretary*.

9.2 A *claim for reimbursement* shall be in a form approved by the *Secretary*.

9.3 A *Service Operator* shall make no more than one *claim for reimbursement* in any one calendar month.

9.4 A *Service Operator* may make a *claim for reimbursement* for:

- (a) an *eligible passenger* who has travelled within the previous 12 months; and
- (b) subject to clause 11, where an *eligible passenger* has not yet travelled, but has booked and paid for travel to be undertaken during the period of no more than 6 continuous weeks for which the claim is made, for that passenger.

9.5 Where a claimant requires reimbursement to be made directly to an account at a bank or other financial institution, the claimant shall provide the *Department* with details in a form approved by the *Secretary*:

- (a) at the time of making its first *claim for reimbursement* under *the Scheme*; and
- (b) in circumstances where the claimant wishes to vary the mode of payment of reimbursement.

9.6 The *Deputy Secretary* may reject, reduce or withhold reimbursement, if, in his or her opinion:

- (a) the claimant has acted dishonestly, unreasonably or unconscionably in making a *claim for reimbursement*;
- (b) the documents submitted in support of the *claim for reimbursement* do not state the true facts in relation to the carriage of *eligible passengers* and *eligible passenger vehicles*;
- (c) the claimant fails to allow an authorised officer to carry out his or her duties under subclause 16.1;
- (d) the claimant fails to provide a certified Auditors statement as required under subclause 16.2; or
- (d) the claimant refuses to comply with a reasonable request of the Bureau under clause 17.

10. *Claim for Reimbursement by an eligible passenger*

10.1 *An eligible passenger's claim for reimbursement shall be submitted to the Deputy Secretary.*

10.2 *An eligible passenger's claim for reimbursement shall be in a form approved by the Secretary.*

10.3 *An eligible passenger may make a claim for reimbursement for travel undertaken within the previous 12 months.*

10.4 *Where an eligible passenger requires reimbursement to be made directly to an account at a bank or other financial institution, the passenger shall provide the Department with bank details in a form approved by the Secretary.*

10.5 *The Deputy Secretary may reject, reduce or withhold a reimbursement, if, in his or her opinion:*

- (a) the claimant has acted dishonestly, unreasonably or unconscionably in making a *claim for reimbursement*;
- (b) the documents submitted in support of the *claim for reimbursement* do not state the true facts in relation to the *Bass Strait crossing* undertaken by the *eligible passenger* or *eligible passenger vehicle*;

10.6 *The documentation submitted with the claim for reimbursement shall be in the form of a copy of the receipt(s) and boarding passes or consignment notes or like document issued by the relevant Service Operator(s) for the eligible passenger and the eligible passenger vehicle which should detail:*

- (a) the name of the vessel(s) on which the *eligible passenger* and /or the *eligible passenger vehicle* undertook each *Bass Strait crossing*;
- (b) the name of the *eligible passenger*;

- (c) vehicle type and registration number of the *eligible passenger vehicle*,
- (d) the date of departure for each *Bass Strait crossing*;
- (e) whether the booking(s) represents a *one-way trip* or a *round trip*;
- (f) the *passenger vehicle* fare for each booking;

11. Surety

11.1 The *Secretary* may, at any time, require a *Service Operator* wishing to claim a reimbursement in accordance with subclause 9.4(b) to provide, at the *Service Operator's* cost, a surety, specifying the Commonwealth as beneficiary of that surety, with a bank or other financial institution, in the form of a bank guarantee, a documentary letter of credit or some other form of surety provided by the bank or financial institution which is satisfactory to the *Secretary*, for the amount and for the period of time specified by the *Secretary*.

11.2 The *Secretary* may, at any time, require a *Service Operator* to increase either or both of, the amount of surety required or the period of time for which the surety must be held.

11.3 A *Service Operator* will not be eligible to claim a reimbursement under subclause 9.4(b) where:

- (a) it fails to provide the surety in the form required by the *Secretary* when requested to do so; or
- (b) it fails to increase the amount of the surety, or the period of time for which the surety must be held, when requested to do so.

12. Reimbursement

12.1 On being satisfied that a *claim for reimbursement* is in accordance with these Directions, the *Deputy Secretary* shall pay to the claimant the amount of reimbursement claimed.

12.2 If the *Deputy Secretary* is satisfied that the amount of reimbursement claimed is incorrect, the *Deputy Secretary* may determine a different amount.

12.3 Where the *Deputy Secretary* determines that a lesser amount of reimbursement is payable the *Deputy Secretary* shall provide the claimant with reasons for that determination.

12.4 The *Deputy Secretary* has a general discretion to approve rebate payments to *eligible passengers* or *Service Operators*, where, due to unforeseen

circumstances, an *eligible passenger* is unable to cross Bass Strait other than by means of air transport, so long as the *eligible passenger* provides the following:

- (a) a boarding pass for air travel across Bass Strait;
- (b) documentary evidence of the shipment of a particular eligible passenger vehicle across Bass Strait, on or about the same date as the air travel (including make, model, and registration number of the vehicle); or
- (c) documentary evidence of rental car hire on or about the same date of air travel; and
- (d) a postal address and bank details for the payment of the rebate.

12.5 Subclause 12.4 will apply notwithstanding that the individual does not meet the definition of an *eligible passenger*.

12.6 Subclause 12.4 does not apply to individuals who meet the definition of *eligible person*.

13. Repayment of Reimbursement

13.1 If the *Deputy Secretary* is satisfied that a claimant has received reimbursement in excess of its entitlement under these Directions, the *Deputy Secretary* may:

- (a) request that the claimant repay that amount which is determined to be excess; or
- (b) deduct the amount, which is determined to be excess from the claimant's subsequent *claims for reimbursement* (if any).

13.2 For the purposes of this clause, and subject to subclauses 12.4 and 12.5, a reimbursement paid to a *Service Operator* where the Operator fails to carry the passenger for whom the reimbursement was made, shall be regarded as a reimbursement in excess of the Operator's entitlement.

13.3 Where the *Deputy Secretary* makes a determination under subclause 13.1, the *Deputy Secretary* shall provide the claimant with the reasons for that determination.

13.4 A claimant shall, within 30 days of receiving a request for repayment under subclause 13.1(a) repay that amount to the *Department*.

13.5 Where a *Service Operator* fails to repay the amount requested within 30 days, and the Operator has provided a form of surety under clause 11, the Commonwealth may require the surety to be met.

13.6 Where a *claim for reimbursement* is reduced in accordance with subclause 13.1(b), the *Deputy Secretary* shall notify the claimant of the amount deducted from the reimbursement at the time of its payment.

14. Review of Determination

14.1 A claimant, being a *Service Operator* or *eligible passenger* who receives reimbursement of less than the amount claimed, or who is requested to repay an amount determined as excess, may request the *Secretary* to review the determination.

14.2 An application to the *Secretary* for a review of a determination:

- (a) shall be in writing;
- (b) need not be made in any special form;
- (c) shall contain a statement of the reasons for the application;
- (d) shall be supported by appropriate documentary evidence; and
- (e) shall be lodged with the *Secretary* not later than 21 days after the applicant has been notified of the determination.

14.3 The *Secretary* shall, within 21 days of receiving an application to review a determination, and where the *Secretary* is satisfied that the requirements of subclause 14.2 have been satisfied, review the determination.

14.4 The *Secretary* may affirm or vary the determination.

14.5 The *Secretary* shall provide written reasons of his or her decision to the *Deputy Secretary* and the applicant.

14.6 The decision of the *Secretary* is conclusive of the matter.

14.7 The *Deputy Secretary* shall give effect to the decision of the *Secretary*.

15. Information Requirements (Booking Details and Register)

15.1 Subject to subclause 15.2 and 15.3, booking details held by each *Service Operator* in respect of each *eligible passenger* who receives a *rebate* from the *Service Operator* shall include the following:

- (a) the name of the passenger;
- (b) particulars, including the registration number, of the type of *passenger vehicle* accompanying the passenger;
- (c) whether the booking is a *one-way trip* or a *round trip*;

- (d) the date of departure for each Bass Strait crossing;
- (e) the *passenger vehicle* fare for the booking;
- (f) the *rebate* provided;
- (g) the type of accommodation booked; and
- (h) the number of passengers travelling under the booking.

15.2 Booking details held by each *Service Operator* conducting a *King Island service* in respect of each *eligible passenger* who receives a *rebate* from the *Service Operator* shall include the following:

- (a) the name of the *eligible passenger*;
- (b) the date and flight number of departure for each crossing by the *eligible passenger*;
- (c) particulars of the type of *eligible passenger vehicle* carried, including the registration number;
- (d) whether the booking is a *one-way trip* or a *round trip*;
- (e) the *passenger vehicle* fare for the booking; and
- (f) the *rebate* provided.

15.3 Booking details held by each *Service Operator* for each *eligible passenger* who has a *medical condition* shall include the following:

- (a) the name of the *eligible passenger*;
- (b) a statement recording that a medical certificate from a *medical practitioner* substantiating the *medical condition* was sighted;
- (c) the date and flight number of departure for each crossing by the *eligible passenger*;
- (d) particulars of the type of *eligible passenger vehicle* carried, including the registration number;
- (e) whether the booking is a *one-way trip* or a *round trip*;
- (f) the *passenger vehicle* fare for the booking; and
- (g) the *rebate* provided.

15.4 A *Service Operator* claiming reimbursement under these Directions shall maintain, for a period of 5 years, a register containing records of the following:

- (a) booking details;
- (b) for each voyage, details of:
 - (i) the number of *eligible passengers* carried;
 - (ii) the number of *eligible passenger vehicles* carried, categorised by the type of vehicle
 - (iii) the *rebate* provided or paid by the *Service Operator*.

15.5 The *Secretary* shall determine the form in which the following are to be displayed on documentation issued to *eligible passengers* by a *Service Operator*.

- (a) details of the amount of *rebate* provided; and
- (b) an acknowledgment that the *rebate* is provided under the Commonwealth Government's Bass Strait Passenger Vehicle Equalisation Scheme.

16. Audit - Claims for Reimbursement

16.1 An officer of the *Department* or its *agent*, authorised in writing by the *Secretary*, may at all reasonable times, upon giving reasonable notice, enter a claimant's premises and may inspect, make and retain copies of, and take extracts from, the accounts, books, documents, and other records relating to the transportation of passengers and vehicles under *the Scheme*.

16.2 A *Service Operator* having received a reimbursement from the *Department* during a financial year shall, as soon as practicable after the end of that financial year, provide to the *Secretary* a statement certified by an *Auditor*, which specifies whether, in the *Auditor's* opinion:

- (a) the correct *rebate* for *eligible passengers* has been claimed by the *Service Operator*, having specific regard to the types of *eligible passenger vehicles* carried;
- (b) the *rebate* claimed by the *Operator* has been applied against the *passenger vehicle* fare of *eligible passengers*; and
- (c) the records required under clause 15 are being maintained by the *Operator*.

17. Monitoring of *the Scheme*

17.1 A *Service Operator* who claims reimbursement under *the Scheme* shall be subject to monitoring by the *Bureau*.

17.2 The Bureau shall, every 2 years, monitor the effectiveness of the Scheme over the previous 2 year period (the first such period being from 1 July 2007 to 30 June 2009). The monitoring shall be done with specific regard to:

(a) movement in fare prices in the relevant 2 year period; and

(b) movement in the number of *eligible passengers, eligible passenger vehicles* and passengers travelling under related bookings, carried in the relevant 2 year period.

17.3 A *Service Operator* shall comply with all reasonable requests by the *Bureau* for information or access to documentation, in relation to the *Bureau's* monitoring function.

18. Variation to Ministerial Directions

18.1 The Minister may from time to time vary these Directions.

18.2 Minor variations to these Directions may be made by the Secretary. The Secretary may not make variations which materially change the intent or scope of the Scheme. Any changes made by the Secretary are to be properly documented.

19. Annual review of amount of rebate

The Secretary shall review price movements annually to determine whether the amounts in the table in Schedule 1 should be adjusted. Adjustments to those amounts to reflect price movements are minor variations for the purpose of subclause 18.2.

19.2 The first review under this clause is to be done by 1 July 2009.

Schedule 1 - *Rebate* applicable under BSPVES

The amount of rebate paid is limited to the ferry operator's vehicle fare for that particular type of passenger vehicle if the fare is below the applicable rebate shown in the following table.

Type of vehicle	One way trip	Round trip
Motor Car	Up to \$183	Up to \$366
Bus	Up to \$183	Up to \$366
Motorhome	Up to \$366	Up to \$732
Eligible passenger vehicle towing a caravan	Up to \$366	Up to \$732
Motorcycle	Up to \$91	Up to \$182
Bicycle	Up to \$25	Up to \$50