

Volunteer Drivers and Exempt Passenger Services

Who is a volunteer driver?

Volunteer drivers are those who're not paid for their service as a driver. This means passengers aren't charged for the driver's time, or any costs not associated with the actual journey. If the vehicle carries 12 people or less, these drivers don't require a passenger (P) endorsement in most circumstances.

Passenger services that charge passengers for facilitating a journey, using drivers who aren't paid for their time (eg facilitated carpooling) must hold a small passenger service licence (SPSL), but their drivers don't need a P endorsement.

Exempt services

The Land Transport: Operator Licensing Rule 2017 (Operator Licensing Rule) specifies the passenger services that are exempt from holding a passenger service licence.

Passenger services operated by or under the control of a district health board, local authority, an incorporated charitable organisation, or an incorporated organisation registered under the Charities Act 2005 are exempt where:

- the vehicle used is provided by the organisation or the driver, and
- the driver is either a volunteer or a staff member of the organisation whose primary responsibility is not driving, and
- the only payments made by the organisation to a driver who provides the vehicle is for reimbursing the driver for the running cost of the vehicle and does not include payment for the driver's service, and
- the only payment made by the passenger is for reimbursing the organisation or the driver for the running cost of the vehicle, and does not include payment for the driver's service.

Other exempt passenger services include:

- traditional carpooling, such as arrangements between friends or neighbours to share transport, and carpooling organised by local authorities.
- a passenger service provided by a person offering a home or community support service, where:
 - the vehicle used is designed or adapted to carry 12 people or less (including the driver), and
 - transport is provided to clients as an incidental part of the service, and
 - the client doesn't pay a fee or fare for the transport.
- transporting school children by parents or caregivers in a vehicle designed or adapted to carry 12 people or less (including the driver) in return for a Ministry of Education private transport allowance.

- transporting children and their escorts to or from any activity of a school, kindergarten, play-centre or other institution providing pre-school education, where:
 - the vehicles used are designed or adapted to carry 12 people or less (including the driver), and
 - the vehicle is provided by the institution or the driver, and
 - the driver is a staff member of the institution, or a person approved by the institution, or a parent or caregiver of one of the children being carried, and
 - the only payment made by the institution to a driver who provides the vehicle is for reimbursing that person for the cost of the running the vehicle, and doesn't include payment for the driver's service.
- a small passenger service provided by an organisation offering liquor, meals or refreshments for consumption on licensed premises, where a fee or fare is not required of its passengers.
- a passenger service where:
 - the vehicle used is designed or adapted to carry more than 12 people (including the driver), and
 - the vehicle used has been hired from a person who holds both a large passenger service licence and a rental service licence, and
 - the only payments made are for the cost of hiring and running the vehicle, and no payments are made for the driver's service.

For the full list of exempt passenger services, refer to section 6 of the Operator Licensing Rule.

Who isn't exempt?

Passenger services operating small vehicles for hire or reward must have an SPSL and their drivers must hold a P endorsement.

A large passenger service licence (LPSL) is normally required by the owner or operator of a vehicle seating more than 12 people, including the driver (eg buses and large vans). Volunteers who drive these vehicles must have a P endorsement on their licence. Insurance companies can refuse a claim and you can be prosecuted for driving without an endorsement.

Under certain conditions exemptions may apply when these vehicles aren't being operated as a passenger service. Call us on 0800 822 422 for advice on your specific situation.

Definition of hire or reward

'Hire' means there is specific compensation for carrying passengers or freight, but it is not necessary that the carrier makes a profit.

'Reward' means any 'valuable consideration', usually in situations where one person performs a useful service for some other person, and the person performing the service is given recompense (reward) for that service. It includes cases where there is no obligation to pay. Reward is not just an alternative word for hire.

While 'hire or reward' is not defined in law, the term has been interpreted through case law (what courts have decided when they've been asked to determine if someone has broken the law or not). The case law interpretation is very broad.

Amendments made in 2005 to the Land Transport Act 1998 incorporated case-law interpretations to the revised definition of passenger service, which now includes:

- when passengers pay a specific charge that is expected as a condition of carriage, including part payments to cover fuel and donations
- when the person or organisation providing the service receives specific funding to do so (eg a Ministry of Health grant to take older people on outings)
- when passengers are carried as an integral part of, or reasonably necessary to provide, another service or activity (other than a transport service) for which payment is made.

Legislation for transporting passengers

- The Land Transport Act 1998 covers situations where people are transported as part of a service offered by others and defines when an SPSL or LPSL is required.
- The Operator Licensing Rule sets out the requirements for an operator of a transport service.
- The Vehicle Standards Compliance Rule 2002 requires that vehicles used in a passenger service must pass a more comprehensive safety check.
- The Passenger Service Vehicles Rule 1999 describes in detail what the requirements are for passenger service vehicles.
- The Land Transport (Driver Licensing) Rule 1999 requires drivers of motor vehicles operated in a passenger service to hold a P endorsement on their driver licence.

Copies of the legislation are available from some libraries, from bookshops that sell legislation and at www.legislation.govt.nz.

The vehicle

Vehicles used under either an SPSL or an LPSL have to meet higher safety requirements than other vehicles. They must:

- undergo six-monthly certificate of fitness (rather than warrant of fitness) inspections, and
- be inspected by an approved certifier to ensure they meet all the applicable requirements in the Passenger Service Vehicle Rule.

Where can I find out more?

Please refer to our website www.nzta.govt.nz for more information or refer to one of the following factsheets:

Factsheet 02: *Work time and logbooks*

Factsheet 15: *Passenger service vehicles*

Factsheet 21: *Rights and responsibilities of small passenger service drivers*

Factsheet 42: *P endorsements for carrying passengers*

Factsheet 47: *Transport Service Licences* (including passenger service licences)

Factsheet 78: *Passenger Services*

If you want some free help in developing a safe transport or safe driving policy, contact the regional education adviser in your nearest NZ Transport Agency office.

The information in this factsheet is a general guide only. It is not the source of the law and should not be used in place of authoritative legal documents. Some factsheets are updated frequently and print versions can quickly become out of date. If the currency of the information you are reading is important, check the factsheet index on our website (www.nzta.govt.nz/factsheets) or call us on 0800 822 422.

Contact details

- Call our contact centre: 0800 822 422.
- Visit our website: www.nzta.govt.nz.
- Email us: info@nzta.govt.nz.
- Write to us: NZ Transport Agency, Private Bag 11777, Palmerston North 4442.