

Safeguards for the Use of Security Camera Systems in Taxis in NSW

PURSUANT to the sub-cl18(4)(a) and cl88 of the *Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017*, Transport for NSW hereby notifies that the following 'Safeguards for the Use of Security Camera Systems in Taxis in NSW' apply to taxis licensed under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

1. Background

These safeguards apply with effect from 1 November 2017 to any video recording made by a security camera system fitted in or on a vehicle that is a taxi.

These safeguards are made pursuant to sub-cl18(4)(a) and cl88 of the Regulation and should be read in conjunction with the provisions relating to security camera systems in the Regulation and any requirements for approved security camera systems issued by TfNSW pursuant to cl3.

Specified persons should also apply any other security safeguards that are considered reasonable in the circumstances in accordance with sub-cl18(4)(b) of the Regulation, and comply with relevant provisions in the *Workplace Surveillance Act 2005*.

A breach of these security safeguards is an offence which may result in a fine of \$1,100 in the case of a body corporate or \$550 in the case of an individual.

2. Definitions

Act means the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.

Approved security camera system means a security camera system that complies with requirements established for the time being by TfNSW by order published in the Gazette.

Accessing a video recording means downloading, viewing, printing, transmitting, publishing or copying a video recording.

Authorised officer means an authorised officer appointed under Division 1 of Part 7 of the Act. Authorised officer includes a Police Officer.

Authorised purpose has the same meaning as in the Regulation and also includes downloading and accessing video recordings for the purpose of the installation, testing and maintenance of security camera systems consistent with these safeguards.

Authorised person means a person authorised by the specified person for the purpose of accessing security camera system video recordings.

Download means retrieving a video recording from a security camera system via the specialist software provided by the manufacturer of the camera system.

Evidentiary protocols means protocols or safeguards for accessing, handling, storing and transferring video recordings for an authorised purpose related to the issuing a penalty notice or prosecution of an offence under sub-cl18(8)(b) of the Regulation.

Regulation means the *Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017*.

Security camera system means an approved security camera system that meets the requirements set out in the approved security camera system specifications.

Security camera system specifications means the approved security camera system specifications published for the time being in the NSW Government Gazette.

Specified person means:

- a) a provider of a taxi service (other than an affiliated service);
- b) a facilitator of an affiliated service;
- c) holder of a taxi licence; and
- d) an affiliated provider of a taxi service (if the affiliated provider is entitled to have access to the video recordings made by a security camera system fitted in or to a taxi used by the provider).

Video recording has same meaning as in the Regulation.

3. Responsibilities of specified persons

A specified person must take reasonable steps to protect video recordings made by a security camera system from access by any person for any purpose other than an authorised purpose.

A specified person must ensure that a video recording is stored in a secure manner. This includes taking all reasonable physical security measures, password protections and/or encryption measures necessary to ensure that video recordings are protected from unauthorised access.

4. Authorised persons (for purpose of taxi security camera systems)

An authorised person nominated by a specified person for the purpose of carrying out obligations and functions under the Act and Regulation in respect of security camera systems must be trained or otherwise instructed in relation to the necessary steps required to be taken to protect a video recording from unauthorised access.

A person other than an authorised person must not access a video recording.

An authorised person may only access a video recording for an authorised purpose.

An authorised officer may also access a video recording for an authorised purpose.

5. Record keeping

5.1 Records of particulars of compliance

A specified person must ensure that records of the particulars of measures taken to comply with these safeguards and the requirements specified at cl18(4) and cl19 of the Regulation are kept.

A record kept under this requirement must be kept by an authorised person and must be in a form approved by the Point to Point Transport Commissioner.

Note: these record keeping requirements are additional to any other requirements relating to the identification and management of risks to health and safety pursuant to the Act and Regulation.

5.2 Records of downloads of video recordings

A specified person must ensure that records are kept of each instance a video recording is downloaded, including:

- a) the reason for the download;
- b) the taxi number of the vehicle in which the video recording was made;
- c) the date, time and location of the download;
- d) the name of the person who downloaded the video recording;
- e) description of the incident;
- f) driver name and identification number;
- g) NSW Police report number (if applicable);
- h) the name and contact details of –
 - i. the person asking for the downloaded video recording; and
 - ii. the person (if any) to whom the downloaded video recording is to be given.
- i) the date and time the video recording was made; and
- j) the filename of the video recording.

5.3 Records of disposals of video recordings

A specified person must keep a record of each disposal of a video recording that is downloaded for an authorised purpose.

6. Installation, testing and maintenance of security camera systems

A video recording may be downloaded or accessed for a purpose related to the installation, testing and maintenance of a security camera system only where it is necessary to ensure the proper working of the security camera system.

Any person who downloads or accesses a video recording for a purpose related to the installation, testing and maintenance of a security camera system must be an authorised person.

An authorised officer may cause an authorised person to download or access a video recording for a purpose relating to the assessment of compliance with the Act, Regulations, the security camera system specifications or these safeguards.

Any video recording accessed for the purpose of the installation, testing and maintenance of a security camera system must be stored in a secure manner and disposed of in a manner consistent with cl19 of the regulation.

A specified person must keep a record of each instance a video recording is accessed or downloaded, for a purpose related to the installation, testing and maintenance of a security camera system.

A specified person must ensure that a record is kept of each disposal of a video recording that is downloaded for a purpose related to the installation, testing and maintenance of a security camera system.

Note: the *Security Industry Act 1997* requires that "A person must not carry on a security activity unless the person is the holder of a licence authorising the person to carry on the activity".

Installing, maintaining, repairing or servicing security camera systems in a taxi, other than by the operator of the taxi, constitutes a "security activity" and it is a requirement that any person, other than the taxi operator, undertaking these works holds an appropriate security licence. However, the downloading or printing of images from a camera is not a "security activity".

It should also be noted that *Security Industry Act 1997* also requires a person who sells security equipment to hold an appropriate security licence.

The *Security Industry Act 1997* is administered by NSW Police.

7. Evidentiary protocols

Where the purpose of accessing a video recording is the prosecution of, or the issue of a penalty notice in respect of, an offence under the Act or Regulation, the *Crimes Act 1900* or a major offence under the *Road Transport Act 2013* that is committed in or about a taxi, the following safeguards are to apply:

- a) A specified person must take reasonable steps to ensure that images are accessed and handled in a manner that protects their admissibility into evidence.
- b) A specified person should take reasonable steps to comply with any evidentiary protocols required by a police officer or Roads and Maritime Services or the Point to Point Transport Commissioner (in the case of a prosecution or penalty notice issued under the *Road Transport Act 2013* or the Act or Regulations) in relation to the accessing, handling, storing and transferring of a particular video recording.