



BERMUDA

MOTOR CAR AMENDMENT (NO. 2) ACT 2010

2010 : 48

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WHEREAS it is expedient to amend the Motor Car Act 1951;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Motor Car Act 1951 (the "principal Act"), may be cited as the Motor Car Amendment (No. 2) Act 2010.

Amends section 2

2 Section 2(1) of the principal Act is amended by inserting the following definitions in alphabetical order—

"designated development" means any property that has been designated under section 19H(1)(a);

"fractional hire vehicle" means a private motor car, the overall length of which does not exceed 3810 mm (150 inches) and which is owned by a person who

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operates a fractional vehicle hire service under a permit issued under section 19J or transferred to that person under section 19K;

“fractional unit” means any property that has been designated as a fractional unit under section 19H(1)(b);

“fractional vehicle hire service” means a service for the hire of fractional hire vehicles to the owners of fractional units in a designated development;”.

Inserts sections 19G to 19N

3 The principal Act is amended by inserting the following sections next after section 19F—

“Prohibition

19G No person who owns a fractional unit, in whole or in part, or who occupies a fractional unit, shall own or register a private motor car in respect of that unit.

Designation by Minister

19H (1) The Minister may by order—

- (a) designate any property that provides accommodation for *bona fide* visitors to Bermuda as a development for the purposes of this Act; and
- (b) designate any property that is situated in a designated development and provides accommodation for *bona fide* visitors to Bermuda as a fractional unit for the purposes of this Act.

(2) In subsection (1), the term “*bona fide* visitor” shall be construed in the sense in which it is used in the Bermuda Immigration and Protection Act 1956.

(3) An order made under subsection (1) is subject to the affirmative resolution procedure.

Operation of fractional vehicle hire service

19I (1) Notwithstanding anything in section 16, a person may, in accordance with this section, operate a fractional vehicle hire service and for that purpose own or be registered as the owner of private motor cars.

(2) Subject to section 19M, the maximum number of fractional hire vehicles that may be owned or registered by an operator of a fractional vehicle hire service in respect of a designated development is 10% of the total fractional units in that development, up to a maximum of ten vehicles.

(3) No person shall operate, or cause or allow any other person to operate, a fractional vehicle hire service except under the authority of a permit issued to that person under section 19J or transferred to that person under section 19K.

(4) The operator of a fractional vehicle hire service shall not use, or cause or allow any person to use, a fractional hire vehicle, other than by hiring it to the owner of a fractional unit, in whole or in part, while the owner is occupying the unit.

(5) The operator of a fractional vehicle hire service shall not hire a fractional hire vehicle to any person unless that person holds a valid driver's licence issued under this Act for a private motor car.

(6) Fractional hire vehicles shall be fitted with such distinctive identification marks as the Minister may specify.

Issue and renewal of permit

19J (1) An application for a permit to operate a fractional vehicle hire service shall be made to the Minister in the prescribed manner and shall contain the prescribed particulars.

(2) The Minister shall consider the application and may in his discretion either issue or refuse to issue a permit.

(3) An applicant for a permit shall, on approval of the application, pay the fees set out in Schedule 1B.

(4) A permit may be issued subject to such terms and conditions as the Minister may specify.

(5) A permit shall be renewable annually, subject to such terms and conditions as the Minister may specify.

Transfer of permit

19K (1) A permit issued under section 19J is not transferable, except with the approval of the Minister.

(2) An application for approval to transfer a permit shall be made to the Minister in the prescribed manner and shall contain the prescribed particulars.

(3) The Minister shall consider the application and may in his discretion either approve or refuse to approve the transfer of the permit.

(4) Approval to transfer a permit may be given subject to such terms and conditions as the Minister may specify.

Suspension and revocation of permit

19L (1) If at any time the Minister is satisfied that the holder of a permit to operate a fractional vehicle hire service—

- (a) has divested himself, wholly or substantially, of the management and control of the service;
- (b) is not operating the service in an efficient manner; or
- (c) is not operating the service in accordance with the terms and conditions of the permit,

the Minister may by notice in writing to the holder of the permit suspend the permit for a period not exceeding twelve months.

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(2) The notice referred to in subsection (1) shall specify the grounds on which the suspension is made.

(3) Before suspending a permit, the Minister shall give the holder of the permit an opportunity to object and to be heard by the Minister concerning the objection.

(4) A permit that has been suspended shall have no effect during the period of the suspension.

(5) On the expiration of the suspension, the Minister may by notice in writing to the holder revoke the permit.

(6) Where the holder of a permit is aggrieved by a decision of the Minister to suspend or revoke the permit, the holder may have the matter remitted to a court of summary jurisdiction in the manner provided, and subject to the conditions set out, in section 116.

(7) Where the court reverses the decision of the Minister, the Minister shall not again suspend the permit during a period of two months from the later of—

- (a) the date of the reversal of the decision; or
- (b) the date on which the suspension of the permit was due to expire or the date on which the revocation of the permit was due to take effect, as the case may be.

(8) The reversal of a decision shall not preclude the Minister from suspending or revoking the permit again in the future, subject to the provisions of this section.

Minister may vary number of vehicles

19M (1) The Minister may, by order published in the Gazette, vary the maximum number of fractional hire vehicles that may be owned or registered by an operator of a fractional hire service in respect of designated developments generally or in respect of any particular designated development.

(2) An order made under subsection (1) is subject to the affirmative resolution procedure.

Offences

19N A person who contravenes any of the provisions of section 19G or 19I commits an offence against this Act.”.

Amends Schedule 1

4 Schedule 1 to the principal Act is amended in item J by inserting the word “than” immediately after the words “not less”, and by inserting the following item next after item J—

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"

JA FRACTIONAL HIRE VEHICLES	
1 Engine Capacity	not exceeding 2,500 c.c.
2 Length overall	not exceeding 150 inches
3 Width overall	not exceeding 71 inches.
4 Number of wheels on which supported	4
5 The ratio of the weight of the vehicle to the maximum engine power output shall be not less than 10.50 kilograms per kilowatt.	

".

Amends Schedule 1B

5 Schedule 1B to the principal Act is amended by inserting the following item next after the item "MINIBUS SERVICE PERMIT FEE"—

"FRACTIONAL VEHICLE HIRE SERVICE PERMIT FEES (**section 19J(3)**)

One-time permit fee for fractional hire service	\$5,000
One-time permit fee per vehicle owned or registered by operator of fractional vehicle hire service	\$3,000

".

Amends Schedule 2

6 Schedule 2 to the principal Act is amended by inserting the following item next after the item "S LIMOUSINES"—

"

T FRACTIONAL HIRE VEHICLES	
Where the length overall—	
does not exceed 3505 mm (138 in.)	\$281.05
exceeds 3505 mm (138 in.) but does not exceed 3658 mm (144 in.)	\$386.90
exceeds 3658 mm (144 in.) but does not exceed 3810 mm (150 in.)	\$547.50

".

Commencement

7 This Act shall come into operation on a day to be appointed by the Minister by notice published in the Gazette.

[Assent Date: 10 August 2010]