



Western Australia

## **Transport (Road Passenger Services) Act 2018**

Compare between:

[01 Aug 2019, 00-f0-01] and [04 Apr 2020, 00-g0-01]





Western Australia

## **Transport (Road Passenger Services) Act 2018**

**An Act to —**

- **provide for the regulation of the road passenger transport industry; and**
  - **repeal the *Taxi Act 1994* and the *Taxi Drivers Licensing Act 2014*; and**
  - **make consequential amendments to the *Transport Co-ordination Act 1966* and other Acts,**
- and for related purposes.**

The Parliament of Western Australia enacts as follows:

## Part 1 — Preliminary

### 1. Short title

This is the *Transport (Road Passenger Services) Act 2018*.

### 2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

### 3. Objects of Act

The objects of this Act are —

- (a) to provide for a safe, flexible, responsible, innovative and customer-focused road passenger transport industry; and
- (b) to enable the development and operation of innovative and accessible road passenger transport services that contribute to the mobility and safety of the people of Western Australia; and
- (c) to provide for an ~~industry-funded buyback scheme for owners of taxi plates issued under the *Taxi Act 1994*~~[on-demand passenger transport levy](#); and
- (ca) [to provide for a buyback scheme for owners of taxi plates issued under the \*Taxi Act 1994\*, and for COVID-19 relief payments and regional assistance payments, which may be funded by the levy; and](#)
- (d) to provide for adjustment assistance grants for certain country taxi-car licensees operating in the Mandurah and Murray local government districts.

[\[Section 3 amended: No. 10 of 2020 s. 4.\]](#)

#### 4. Terms used

(1) In this Act, unless the contrary intention appears —

***approved*** means approved in writing by the CEO;

***approved medical report*** means a report complying with the requirements of the regulations for a medical report;

***associated booking service***, in relation to an authorised on-demand booking service (the ***principal booking service***), means another on-demand booking service the provider of which has an association arrangement with the provider of the principal booking service in accordance with section 27;

***association arrangement*** means an arrangement between providers of booking services that meets the prescribed requirements;

***authorised officer*** has the meaning given in section 166;

***authorised on-demand booking service*** means an on-demand booking service the provider of which is authorised under Part 3 to provide the service;

***authorised regular passenger transport service*** means a regular passenger transport service the provider of which is authorised under Part 4 to provide the service;

***business of providing a prescribed passenger transport service*** —

- (a) includes a business of a kind that the regulations provide is a business of providing a prescribed passenger transport service; and
- (b) does not include a business of a kind that the regulations provide is not a business of providing a prescribed passenger transport service;

***category of passenger transport service*** means a category of passenger transport service listed in section 125;

***CEO*** means the chief executive officer of the Department;

***close associate*** has the meaning given in section 12;

**Commissioner of Police** means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

**community transport service** has the meaning given in section 8;

**controlled operations officer** means a person authorised under section 215;

**conviction** includes a finding of guilty, or the acceptance of a guilty plea, whether or not a conviction is recorded;

**courtesy transport service** has the meaning given in section 9;

**criminal record check** means a document issued by the Police Force of Western Australia, the Australian Federal Police or another body or agency approved by the CEO that sets out, or summarises in a manner acceptable to the CEO, the convictions of an individual for offences under a law of this State, the Commonwealth, another State or a Territory;

**Department** means the department of the Public Service principally assisting the Minister in the administration of this Act;

**driver authorisation document** means a driver authorisation document issued under section 102;

**driver's licence** has the meaning given in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1);

**driving authorisation** means —

- (a) a driver's licence; or
- (b) a licence or other authorisation under a law of another State or a Territory authorising the person to drive a vehicle on a road other than solely for the purpose of learning to drive a vehicle;

**hire or reward** has the meaning given in section 11;

**infringement notice** means a notice issued to a person under a written law —

- (a) alleging the commission of an offence; and

- (b) offering the person an opportunity, by paying an amount of money prescribed under the written law and specified in the notice, to have that matter dealt with out of court;

***interstate driver authorisation*** means an authorisation issued under a law of another State or a Territory that —

- (a) authorises a person to drive a vehicle to transport passengers for hire or reward; and
- (b) meets the prescribed criteria;

***interstate vehicle authorisation*** means an authorisation issued under a law of another State or a Territory that —

- (a) authorises a vehicle to transport passengers for hire or reward; and
- (b) meets the prescribed criteria;

***learner's permit*** has the meaning given in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1);

***levy*** means the on-demand passenger transport levy referred to in section 245;

***medical practitioner*** means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

***officer***, in relation to a provider of an on-demand booking service, a passenger transport service or a passenger transport vehicle —

- (a) in relation to a body corporate, has the same meaning as officer has in relation to a corporation under the *Corporations Act 2001* (Commonwealth) section 9; and
- (b) in relation to any other provider, means an individual who has the capacity to make decisions in relation to the operations of the on-demand booking service or passenger transport service or the provision of passenger transport vehicles;

***on-demand booking service*** has the meaning given in section 10;

***on-demand booking service authorisation*** means an authorisation under Part 3 to provide an on-demand booking service;

***on-demand charter passenger transport service*** means an on-demand passenger transport service that does not include a rank or hail service;

***on-demand driver*** means a person who drives an on-demand vehicle for use in providing an on-demand passenger transport service;

***on-demand passenger transport service*** has the meaning given in section 5;

***on-demand rank or hail passenger transport service*** means an on-demand passenger transport service that includes a rank or hail service;

***on-demand vehicle*** means a vehicle used or intended to be used in providing an on-demand passenger transport service;

***passenger*** includes a person acting in the capacity of controlled operations officer but does not include a person carrying out work or on duty in any of the following capacities —

- (a) a person employed in relation to the provision of a passenger transport service;
- (b) a person carrying out work for the provider of a passenger transport service;
- (c) an authorised officer;

***passenger transport authorisation*** means —

- (a) an on-demand booking service authorisation; or
- (b) a regular passenger transport service authorisation; or
- (c) a passenger transport driver authorisation; or
- (d) a passenger transport vehicle authorisation;

***passenger transport driver*** means a person who drives a vehicle for the purpose of transporting passengers for hire or reward;



***passenger transport driver authorisation*** means a passenger transport driver authorisation under Part 5;

***passenger transport service*** means —

- (a) an on-demand passenger transport service; or
- (b) a regular passenger transport service; or
- (c) a tourism passenger transport service; or
- (d) a prescribed passenger transport service;

***passenger transport vehicle*** means a vehicle used or intended to be used in providing a passenger transport service;

***passenger transport vehicle authorisation*** means a passenger transport vehicle authorisation under Part 6;

***prescribed*** means prescribed by the regulations;

***prescribed passenger transport service*** means a service for the transport of passengers by vehicle for hire or reward that is prescribed;

***provide a prescribed passenger transport service*** means carry on the business of providing a prescribed passenger transport service;

***provide a regular passenger transport service*** has the meaning given in section 6(2);

***provide a tourism passenger transport service*** has the meaning given in section 7(2);

***provide an on-demand booking service*** has the meaning given in section 10(2);

***provide an on-demand passenger transport service*** has the meaning given in section 5(2);

***provider of an on-demand booking service*** means a person who provides an on-demand booking service;

***provider of an on-demand vehicle*** means a person who carries on the business of providing one or more vehicles for use in providing an on-demand passenger transport service but does not include a person in a prescribed class of person;

***provider of a passenger transport service*** means a person who provides a passenger transport service;

***provider of a passenger transport vehicle*** means a person who carries on the business of providing one or more vehicles for use in providing a passenger transport service but does not include a person in a prescribed class of person;

***provider of a regular passenger transport service*** means a person who provides a regular passenger transport service;

***rank or hail service*** means an on-demand passenger transport service under which a person can hail or hire an on-demand vehicle while it is standing or plying or touting for hire on a road or in another place accessible to the public;

***regular passenger transport service*** has the meaning given in section 6;

***regular passenger transport service authorisation*** means an authorisation under Part 4 to provide a regular passenger transport service;

***responsible officer***, in relation to the provider of an authorised on-demand booking service, means a person —

- (a) who is nominated under section 29(4)(c) or the regulations to represent the provider in providing the on-demand booking service; and
- (b) who meets the criteria set out in section 30;

***safety duty*** has the meaning given in section 14(1);

***safety standard*** has the meaning given in section 14(2);

***taking a booking*** includes the hiring of a vehicle as a result of a rank or hail service;

***tourism passenger transport service*** has the meaning given in section 7;

***traffic record check*** means a document issued by the Police Force of Western Australia or another body or agency approved by the CEO that sets out or summarises in a manner acceptable to the CEO either or both of the following —

- (a) the convictions of an individual for driving-related offences under a law of this State, another State or a Territory; or
- (b) the infringement notices issued to an individual for alleged driving-related offences under a law of this State, another State or a Territory;

**vehicle** means a motor vehicle as defined in the *Road Traffic (Administration) Act 2008* section 4;

**vehicle licence** means a vehicle licence granted under the *Road Traffic (Vehicles) Act 2012*.

- (2) In this Act, a reference to a passenger or a hirer of a vehicle includes a reference to a prospective passenger or prospective hirer of the vehicle.
- (3) In this Act, a person is not to be taken to provide a passenger transport service solely because the person —
  - (a) drives a vehicle for use in providing that service; or
  - (b) operates a vehicle for use in providing that service; or
  - (c) provides a vehicle for use in providing that service.
- (4) On and after the day on which section 303 comes into operation, a reference in this Act to the *Taxi Act 1994* is a reference to that Act as in force immediately before that day.

## 5. On-demand passenger transport service

- (1) In this Act, an **on-demand passenger transport service** is —
  - (a) a service —
    - (i) for the transport of passengers by vehicle within, or partly within, the State for hire or reward; and
    - (ii) in which the passenger or hirer determines or substantially determines the locations for the beginning and end of the journey and the time of travel;

or

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- (b) a service or other thing that the regulations provide is an on-demand passenger transport service.
- (2) In this Act, ***provide an on-demand passenger transport service*** means carry on the business of providing an on-demand passenger transport service.
- (3) The following are not on-demand passenger transport services —
  - (a) a courtesy transport service;
  - (b) a community transport service;
  - (c) a service or other thing that the regulations provide is not an on-demand passenger transport service.
- (4) In this Act, a business of providing an on-demand passenger transport service —
  - (a) includes a business of a kind that the regulations provide is a business of providing an on-demand passenger transport service; and
  - (b) does not include a business of a kind that the regulations provide is not a business of providing an on-demand passenger transport service.

**6. Regular passenger transport service**

- (1) In this Act, a ***regular passenger transport service*** is —
  - (a) a service —
    - (i) for the transport of passengers by vehicle within, or partly within, the State for hire or reward; and
    - (ii) that is conducted according to regular routes and timetables or according to regular routes and at regular intervals;
  - or
  - (b) a service or other thing that the regulations provide is a regular passenger transport service.

- (2) In this Act, *provide a regular passenger transport service* means carry on the business of providing a regular passenger transport service.
- (3) The following are not regular passenger transport services —
- (a) an on-demand passenger transport service;
  - (b) a tourism passenger transport service;
  - (c) a courtesy transport service;
  - (d) a community transport service;
  - (e) a service or other thing that the regulations provide is not a regular passenger transport service.
- (4) In this Act, a business of providing a regular passenger transport service —
- (a) includes a business of a kind that the regulations provide is a business of providing a regular passenger transport service; and
  - (b) does not include a business of a kind that the regulations provide is not a business of providing a regular passenger transport service.

## 7. Tourism passenger transport service

- (1) In this Act, a *tourism passenger transport service* is —
- (a) a service —
    - (i) for the transport of passengers by vehicle within, or partly within, the State for hire or reward for the purposes of tourism; and
    - (ii) that is designed for the carriage of tourists to destinations listed on a publicly available tour itinerary;
- or
- (b) a service or other thing that the regulations provide is a tourism passenger transport service.

- (2) In this Act, ***provide a tourism passenger transport service*** means carry on the business of providing a tourism passenger transport service.
- (3) The following are not tourism passenger transport services —
  - (a) an on-demand passenger transport service;
  - (b) a courtesy transport service;
  - (c) a community transport service;
  - (d) a service or other thing that the regulations provide is not a tourism passenger transport service.
- (4) In this Act, a business of providing a tourism passenger transport service —
  - (a) includes a business of a kind that the regulations provide is a business of providing a tourism passenger transport service; and
  - (b) does not include a business of a kind that the regulations provide is not a business of providing a tourism passenger transport service.

**8. Community transport service**

- (1) In this Act, a ***community transport service*** is a community-based passenger transport service —
  - (a) that is designed —
    - (i) to benefit individuals or groups within a local community who are in need of some form of assistance; or
    - (ii) to assist individuals or groups within a local community to participate to a greater degree in the life of the community (including the wider community); or
    - (iii) to achieve some other form of community, charitable, educational, benevolent, religious,

recreational, sporting or philanthropic purpose at the local level;

and

(b) that is not established, or is not principally established, with a view to profit or commercial gain.

(2) In this Act, a community transport service —

(a) includes —

(i) a service or other thing that the regulations provide is a community transport service; and

(ii) a service declared under subsection (3);

and

(b) does not include a service or other thing that the regulations provide is not a community transport service.

(3) The CEO may declare by notice published in the *Gazette* that a specified service is a community transport service.

## 9. Courtesy transport service

(1) In this Act, a *courtesy transport service* is a passenger transport service that —

(a) is provided in connection with a service (the *primary service*) that is not the provision of passenger transport by vehicle; and

(b) is not established, or is not principally established, with a view to profit or commercial gain; and

(c) is provided as a courtesy to the customers or patrons of the primary service.

(2) In this Act, a courtesy transport service —

(a) includes —

(i) a service or other thing that the regulations provide is a courtesy transport service; and

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- (ii) a service declared under subsection (3);  
and
- (b) does not include a service or other thing that the regulations provide is not a courtesy transport service.
- (3) The CEO may declare by notice published in the *Gazette* that a specified service is a courtesy transport service.

**10. On-demand booking service**

- (1) In this Act, an *on-demand booking service* is —
  - (a) a service that involves —
    - (i) taking or facilitating bookings for on-demand vehicles to be used in providing on-demand passenger transport services (whether immediately or at a later time); and
    - (ii) communicating the bookings to on-demand drivers or to providers of on-demand passenger transport services;
  - or
  - (b) a service that involves taking or facilitating bookings for on-demand vehicles to be used in providing on-demand passenger transport services (whether immediately or at a later time), where the person who takes or facilitates the bookings is the on-demand driver or the provider of the on-demand vehicle; or
  - (c) a service that facilitates the provision of on-demand passenger transport services including by providing any of the following services —
    - (i) communication services for on-demand drivers and on-demand vehicles;
    - (ii) controlling, co-ordination or administrative or other services for on-demand passenger transport services;



- (iii) safety management systems or regulatory compliance services for on-demand passenger transport services, on-demand drivers and other on-demand booking services;
  - or
  - (d) a service or other thing that the regulations provide is an on-demand booking service.
- (2) In this Act, ***provide an on-demand booking service*** means carry on the business of providing an on-demand booking service.
- (3) In this Act, an on-demand booking service does not include a service or other thing that the regulations provide is not an on-demand booking service.
- (4) In this Act, a business of providing an on-demand booking service —
- (a) includes a business of a kind that the regulations provide is a business of providing an on-demand booking service; and
  - (b) does not include a business of a kind that the regulations provide is not a business of providing an on-demand booking service.
- (5) For the purpose of determining whether a person provides an on-demand booking service it does not matter —
- (a) that a booking is obtained or communicated remotely by means of an electronic device or other means not directly provided by the person who provides the on-demand booking service; or
  - (b) that the provider of the on-demand booking service is located outside the State if the on-demand passenger transport service is provided wholly, or partly, within the State.

**11. Hire or reward**

- (1) In this Act, a person will be considered to be providing a service for the transport of passengers by vehicle for hire or reward, or to be driving a vehicle for the purpose of transporting passengers for hire or reward —
- (a) if —
    - (i) the amount received or intended to be received for transporting the passengers exceeds, or is intended to exceed, the prescribed amount; or
    - (ii) the transport is provided or intended to be provided gratuitously, but with a view to gaining or maintaining custom or other commercial advantage;
  - or
  - (b) in the prescribed circumstances.
- (2) In this Act, the circumstances in which a person will be considered to be providing a service for the transport of passengers by vehicle for hire or reward, or to be driving a vehicle for the purpose of transporting passengers for hire or reward, include using the vehicle for standing or plying or touting for hire for that purpose.
- (3) In this Act, a person will not be considered to be driving a vehicle for the purpose of transporting passengers for hire or reward if —
- (a) the person is driving the vehicle in the course of the person's general employment; and
  - (b) carrying passengers in that vehicle is an incidental part of the person's other employment duties.

- (4) In this Act, a person will not be considered to be providing a service for the transport of passengers by vehicle for hire or reward or to be driving a vehicle for the purpose of transporting passengers for hire or reward —
- (a) if the passengers are transported under a vehicle pooling arrangement; or
  - (b) in the prescribed circumstances.
- (5) In this Act, passengers are transported under a vehicle pooling arrangement if —
- (a) the vehicle is provided by the driver; and
  - (b) the driver would be undertaking the relevant journey in any event; and
  - (c) the transporting of the passengers is not the result of plying or touting for hire by the driver or another person; and
  - (d) the maximum number of persons in the vehicle, including the driver, is 9; and
  - (e) a payment by a passenger is limited to making a contribution to the costs incurred in making the journey and does not involve profit for the driver or any other person.
- (6) Nothing in subsection (1) or (2) limits the circumstances in which a person will be considered to be —
- (a) providing a service for the transport of passengers by vehicle for hire or reward; or
  - (b) driving a vehicle for the purpose of transporting passengers for hire or reward.

**12. Close associate**

(1) In this section —

***relevant financial interest***, in relation to an on-demand booking service, means —

- (a) any share in the capital of the on-demand booking service; or
- (b) any entitlement to receive any income derived from the on-demand booking service, or to receive any other financial benefit or financial advantage from the provision of the on-demand booking service, whether the entitlement arises at law or in equity or otherwise; or
- (c) any entitlement to receive any rent, profit or other income in connection with the use or occupation of premises on or from which the on-demand booking service is or is to be provided (for example, an entitlement of the owner of the premises from which the on-demand booking service is provided to receive rent as lessor of the premises);

***relevant position*** means —

- (a) the position of director, manager or corporate secretary; or
- (b) any other position, however designated, if it is an executive position;

***relevant power*** means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others —

- (a) to participate in any directorial, managerial or executive decision; or
- (b) to elect or appoint any person to a relevant position.

- (2) In this Act, a person is a close associate of an applicant for authorisation to provide an on-demand booking service or the authorised provider of an on-demand booking service if the person —
- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in the person's own right or on behalf of any other person), in relation to the on-demand booking service, and by virtue of that interest or power is or will be able (in the opinion of the CEO) to exercise a significant influence over or in relation to the management or operation of the on-demand booking service; or
  - (b) holds or will hold any relevant position, whether in the person's own right or on behalf of any other person, in the on-demand booking service; or
  - (c) is or will be engaged as a contractor under a contract of service or employed in the on-demand booking service.
- (3) For the purposes of this section, a financial institution is not a close associate by reason only of having a relevant financial interest in relation to the on-demand booking service.
- (4) This section extends to relevant financial interests and relevant powers even if those interests and powers are not payable, exercisable or otherwise enforceable as a matter of law and equity but are payable, exercisable or otherwise enforceable as a matter of fact.

**13. Crown bound**

This Act binds the State, and so far as the legislative power of the State permits, the Crown in all its other capacities.

## **Part 2 — Safety of services**

### **Division 1 — Safety duties: principles**

#### **14. Safety duties and standards**

- (1) In this Act, the *safety duties* for the following persons are the duties that they have under Division 2 —
  - (a) providers of on-demand booking services;
  - (b) providers of passenger transport services;
  - (c) providers of passenger transport vehicles;
  - (d) officers of providers of on-demand booking services, passenger transport services or passenger transport vehicles;
  - (e) drivers of vehicles used for the purpose of transporting passengers for hire or reward.
- (2) In this Act, the *safety standards* for the following persons are the standards specified for those persons in the regulations made under Part 11 Division 2 —
  - (a) providers of on-demand booking services;
  - (b) providers of passenger transport services;
  - (c) providers of passenger transport vehicles;
  - (d) drivers of vehicles used for the purpose of transporting passengers for hire or reward.

#### **15. Principles applying to safety duties**

- (1) A safety duty cannot be transferred to another person.
- (2) A person can have more than one safety duty by virtue of being in more than one class of duty holder.
- (3) More than one person can concurrently have the same safety duty.

- (4) If more than one person has a safety duty for the same matter, each person —
- (a) retains responsibility for the person's duty in relation to the matter; and
  - (b) must discharge the person's duty to the extent to which the person has the capacity to influence and control the matter or would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.

### **Division 2 — Primary duties of care**

#### **16. Primary duty of care of providers of on-demand booking services**

The provider of an on-demand booking service for an on-demand passenger transport service must ensure the health and safety of —

- (a) on-demand drivers and other persons while they are engaged in providing the on-demand passenger transport service; and
- (b) passengers and other persons in connection with the on-demand passenger transport service.

#### **17. Primary duty of care of providers of passenger transport services**

The provider of a passenger transport service must ensure the health and safety of —

- (a) passenger transport drivers and other persons while they are engaged in providing the passenger transport service; and
- (b) passengers and other persons in connection with the passenger transport service.

**18. Primary duty of care of providers of passenger transport vehicles**

The provider of a passenger transport vehicle used or to be used in providing a passenger transport service must ensure that the vehicle is safe and will not cause harm or injury to any person.

**19. Primary duty of care of drivers of vehicles used to transport passengers for hire or reward**

The driver of a vehicle must, while the vehicle is being used for the purpose of transporting passengers for hire or reward —

- (a) ensure their own health and safety; and
- (b) ensure that their own acts or omissions do not adversely affect the health and safety of other persons; and
- (c) if the vehicle is being used in providing an on-demand passenger transport service, comply, so far as the driver is reasonably able, with any reasonable instruction that is given by the person providing the on-demand booking service for the on-demand passenger transport service to enable that person to comply with this Act; and
- (d) if the vehicle is being used in providing a passenger transport service, comply, so far as the driver is reasonably able, with any reasonable instruction that is given by the person providing the passenger transport service or the passenger transport vehicle to enable that person to comply with this Act.

**20. Duty of officers**

An officer of a person (a *duty holder*) that has a safety duty under section 16, 17 or 18 must ensure that the duty holder complies with that safety duty.



**21. Safety duty offence: Category 1**

- (1) A person commits a Category 1 offence if —
- (a) the person has a safety duty; and
  - (b) the person knowingly engages in conduct that breaches that duty and —
    - (i) exposes an individual to whom that duty is owed to a risk of death or serious injury or illness; or
    - (ii) in the case of a breach of a duty under section 20, exposes an individual to whom the duty holder under that section owes a duty to a risk of death or serious injury or illness.

Penalty for this subsection:

- (a) for an individual, imprisonment for 2 years and a fine of \$300 000;
  - (b) for a body corporate, a fine of \$3 000 000.
- (2) A Category 1 offence is a crime.

**22. Safety duty offence: Category 2**

- (1) A person commits a Category 2 offence if —
- (a) the person has a safety duty; and
  - (b) the person fails to comply with that safety duty and that failure —
    - (i) exposes an individual to whom that duty is owed to a risk of death or serious injury or illness; or
    - (ii) in the case of a breach of a duty under section 20, exposes an individual to whom the duty holder under that section owes a duty to a risk of death or serious injury or illness.

Penalty for this subsection:

- (a) for an individual, a fine of \$150 000;
- (b) for a body corporate, a fine of \$1 500 000.

- (2) A Category 2 offence is a crime.

**23. Safety duty offence: Category 3**

A person commits a Category 3 offence if —

- (a) the person has a safety duty; and
- (b) the person fails to comply with that safety duty.

Penalty:

- (a) for an individual, a fine of \$50 000;
- (b) for a body corporate, a fine of \$500 000.

**24. Reasonable steps defence**

- (1) It is a defence to a charge for a Category 1, Category 2 or Category 3 offence to prove that —
- (a) the person did not know and could not reasonably be expected to have known that an offence was committed; and
  - (b) either —
    - (i) the person took all reasonable steps to prevent the breach of the safety duty; or
    - (ii) there were no steps the person could reasonably have taken to prevent the breach of the safety duty.
- (2) Without limiting subsection (1), in determining whether things done or omitted to be done by a person constitute reasonable steps, a court may have regard to the following —
- (a) the circumstances of the alleged offence;
  - (b) the measures available and the measures taken to eliminate or minimise the risk of death or serious injury or illness of persons to whom the safety duty was owed;
  - (c) the personal expertise or experience that the person or an employee or agent of the person had or ought to have had.

**25. Conviction of alternative offence**

- (1) If a person is charged with a Category 1 offence, the person may be convicted of a Category 2 or Category 3 offence.
- (2) If a person is charged with a Category 2 offence, the person may be convicted of a Category 3 offence.

## **Part 3 — On-demand booking services**

### **Division 1 — Interpretation**

**26. Term used: disqualification offence**

In this Part —

*disqualification offence* means an offence under any of the following that is prescribed as a disqualification offence for the purposes of this Part —

- (a) this Act or another written law;
- (b) a law of the Commonwealth;
- (c) a law of another State or a Territory.

### **Division 2 — Offences**

**27. Provider of on-demand booking service must be authorised**

- (1) A person commits an offence if —
  - (a) the person provides an on-demand booking service; and
  - (b) the person does not hold an on-demand booking service authorisation that is in force and authorises the provision of that service.

Penalty for this subsection:

- (a) for an individual, a fine of \$40 000;
  - (b) for a body corporate, a fine of \$200 000.
- (2) A provider of an on-demand booking service is not required to hold an on-demand booking service authorisation to provide the service if the provider has an association arrangement with the provider of an authorised on-demand booking service in relation to that service.
- (3) The provider of an authorised on-demand booking service who has entered into an association arrangement is responsible under this Act for the prescribed functions in relation to on-demand

booking services provided by the provider of the associated booking service in accordance with the association arrangement.

**28. Provider of on-demand booking service must comply with authorisation conditions**

A provider of an on-demand booking service must comply with the conditions of the on-demand booking service authorisation for that service.

Penalty:

- (a) for an individual, a fine of \$40 000;
- (b) for a body corporate, a fine of \$200 000.

**Division 3 — Authorisation**

**29. Application for authorisation to provide an on-demand booking service**

- (1) The following may apply for authorisation to provide an on-demand booking service —
  - (a) an individual;
  - (b) 2 or more persons who intend to provide the service jointly under a partnership or other agreement;
  - (c) a body corporate incorporated under a law of this or any other jurisdiction including —
    - (i) the *Corporations Act 2001* (Commonwealth); and
    - (ii) the *Associations Incorporation Act 2015*; and
    - (iii) the *Co-operatives Act 2009*;
  - (d) any other prescribed entity.
- (2) A person who is disqualified under this Part from holding or obtaining an on-demand booking service authorisation cannot apply for an on-demand booking service authorisation.
- (3) An application for authorisation is to be made to the CEO.

- (4) An application must —
- (a) be in the approved form; and
  - (b) contain the information required by the CEO; and
  - (c) nominate one or more persons who meet the criteria set out in section 30 to represent the applicant in providing the on-demand booking service; and
  - (d) be accompanied by a declaration in the approved form —
    - (i) stating that the authorisations referred to in section 30(b) and (c) have been given; and
    - (ii) acknowledging that documents given to a responsible officer on behalf of the provider of the on-demand booking service under this Act are taken to be given to the provider of the service;
- and
- (e) comply with the requirements of the regulations; and
  - (f) be accompanied by the prescribed application fee.
- (5) At least one person nominated under subsection (4)(c) must be a resident of the State.
- (6) At least one person nominated under subsection (4)(c) in relation to a provider that is a body corporate must be a director or manager of the body corporate.
- (7) The CEO may, by written notice given to the applicant, require the applicant to provide further information relevant to the application that is specified in the notice within the time (being not less than 30 days) specified in the notice.

**30. Responsible officers**

In order to be nominated under section 29(4)(c) or the regulations to represent the provider of an on-demand booking service in providing that service, a person must —

- (a) be directly involved in the day-to-day management of the on-demand booking service; and
- (b) be authorised to represent the provider of the on-demand booking service in providing that service; and
- (c) have access to and be authorised to provide any information relating to the on-demand booking service that is required under this Act; and
- (d) be a fit and proper person to be a responsible officer; and
- (e) have the capacity, on behalf of the provider of the on-demand booking service, to influence the safety of drivers who provide, and vehicles used in providing, the on-demand passenger transport services to which the on-demand booking service relates; and
- (f) meet any prescribed requirements.

**31. Grant of authorisation**

- (1) The CEO may grant an authorisation to an applicant to provide an on-demand booking service if the CEO is satisfied that —
  - (a) each person nominated as a responsible officer by the applicant is a responsible officer of the applicant; and
  - (b) the applicant has complied with the requirements of section 29(4)(a) to (e) and provided the information required under section 29(7); and
  - (c) the applicant complies with any prescribed criteria; and
  - (d) the applicant has paid the prescribed application fee under section 29(4)(f); and

- (e) the applicant has paid the relevant prescribed authorisation fee for the authorisation within the time for payment required by the CEO.
- (2) The CEO may have regard to any relevant matters in determining whether a person nominated by an applicant is a responsible officer.

**32. Refusal of authorisation**

- (1) Without limiting section 31(1), the CEO may refuse to grant an on-demand booking service authorisation if —
  - (a) the CEO is satisfied that the applicant is not a fit and proper person to be authorised to provide an on-demand booking service; or
  - (b) the applicant has previously held an on-demand booking service authorisation, or an equivalent authorisation in another State or a Territory, and that authorisation has been cancelled; or
  - (c) a person nominated as a responsible officer by the applicant has previously held an on-demand booking service authorisation, or an equivalent authorisation in another State or a Territory, and that authorisation has been cancelled; or
  - (d) a close associate of the applicant has previously held an on-demand booking service authorisation, or an equivalent authorisation in another State or a Territory, and that authorisation has been cancelled; or
  - (e) the applicant, a close associate of the applicant, or a person nominated as a responsible officer by the applicant, is charged with a disqualification offence; or
  - (f) a close associate of the applicant has been convicted of a disqualification offence.



- (2) The CEO must refuse to grant an authorisation if —
- (a) the applicant or a person nominated as a responsible officer by the applicant has been convicted of a disqualification offence; and
  - (b) the conviction has not been quashed or set aside; and
  - (c) the disqualification period prescribed for the purposes of section 46(1) in relation to the disqualification offence has not passed since the conviction.
- (3) The CEO may have regard to any relevant matters in determining whether an applicant is a fit and proper person to be authorised to provide an on-demand booking service.

**33. Conditions of authorisation**

An on-demand booking service authorisation is granted subject to the following conditions —

- (a) any conditions imposed under this Act;
- (b) any conditions that the CEO thinks fit and specifies on the authorisation document or otherwise specifies in writing.

**34. Application for variation of conditions**

- (1) The provider of an authorised on-demand booking service may apply to the CEO for the variation of the conditions of the on-demand booking service authorisation imposed by the CEO.
- (2) The application must —
- (a) be in the approved form; and
  - (b) be accompanied by any documents or other information specified in the approved form; and
  - (c) be accompanied by the prescribed application fee.

**35. Variation of conditions**

- (1) The CEO may vary the conditions of an on-demand booking service authorisation imposed by the CEO if the CEO is satisfied that the variation is appropriate in the circumstances.
- (2) A variation may be made on application under section 34 or on the CEO's own initiative.
- (3) A variation —
  - (a) must be in writing; and
  - (b) may do any of the following —
    - (i) vary existing conditions;
    - (ii) remove existing conditions;
    - (iii) add new conditions.

**36. Notice of decision to refuse or vary**

- (1) The CEO must give an applicant written notice of a decision under section 31 or 32 to refuse to grant an on-demand booking service authorisation.
- (2) The CEO must give the provider of an authorised on-demand booking service written notice of a decision —
  - (a) to refuse to grant an application under section 34 for the variation of the conditions of the on-demand booking service authorisation; or
  - (b) to vary the conditions of the on-demand booking service authorisation under section 35.
- (3) In the case of a relevant decision the notice must state —
  - (a) the reasons for the decision; and
  - (b) that the person has a right to a review under Part 10.

(4) In subsection (3) —

**relevant decision** means a decision —

- (a) to refuse to grant an on-demand booking service authorisation —
  - (i) because the CEO is not satisfied as to a matter referred to in section 31(1)(a), (b) or (c); or
  - (ii) under section 32(1);
- or
- (b) to impose conditions on an on-demand booking service authorisation under section 33(b); or
- (c) to vary the conditions of an on-demand booking service authorisation on the CEO's own initiative; or
- (d) to refuse to grant an application for the variation of the conditions of an on-demand booking service authorisation.

**37. Authorisation document**

- (1) If the CEO grants an on-demand booking service authorisation, the CEO must issue an authorisation document to the provider of the service.
- (2) The authorisation document must —
  - (a) be in the approved form; and
  - (b) identify the provider of the authorised on-demand booking service; and
  - (c) specify the authorisation number.

**38. Effect of authorisation**

An on-demand booking service authorisation authorises the provider to provide an on-demand booking service anywhere in the State.

**39. Duration of authorisation**

- (1) An on-demand booking service authorisation is granted for the prescribed period.
- (2) An on-demand booking service authorisation may be renewed in accordance with the regulations.
- (3) An on-demand booking service authorisation remains in force until whichever of the following occurs first —
  - (a) it expires;
  - (b) it is cancelled.
- (4) An on-demand booking service authorisation is not in force during any period for which it is suspended.

Note for this subsection:

See Division 4 for the suspension of an on-demand booking service authorisation.

**40. Authorisation not transferable**

An on-demand booking service authorisation is not transferable.

**41. Publication of list of providers of authorised on-demand booking services**

The CEO must publish a list of all providers of authorised on-demand booking services on the Department's website in accordance with the regulations.

**Division 4 — Suspension, cancellation and disqualification**

**Subdivision 1 — Suspension or cancellation by order**

**42. Suspension or cancellation order**

- (1) The CEO may make an order suspending or cancelling an on-demand booking service authorisation if —

- (a) the CEO is no longer satisfied that the provider of the authorised on-demand booking service meets the requirements for the grant of an authorisation in section 31(1)(a) or (c); or
- (b) the provider of the authorised on-demand booking service has failed to comply with any requirements under this Act, including —
  - (i) a condition of the authorisation; and
  - (ii) any duty or obligation imposed on the provider under this Act;

or

- (c) the authorisation was obtained by fraud or misrepresentation; or
- (d) the CEO is no longer satisfied that the provider of the authorised on-demand booking service is a fit and proper person to be authorised to provide an on-demand booking service; or
- (e) the CEO is no longer satisfied that a responsible officer of the provider of the authorised on-demand booking service is a fit and proper person to be a responsible officer; or
- (f) the provider of the authorised on-demand booking service has failed to —
  - (i) lodge a return with the CEO in accordance with section 250; or
  - (ii) pay the on-demand passenger transport levy in accordance with Part 9 Division 2;

or

- (g) a responsible officer of the provider of the authorised on-demand booking service has held an on-demand booking service authorisation (whether for the same or a different service), or an equivalent authorisation in

another State or a Territory, and that authorisation has been cancelled; or

- (h) a close associate of the provider of the authorised on-demand booking service has held an on-demand booking service authorisation (whether for the same or a different service), or an equivalent authorisation in another State or a Territory, and that authorisation has been cancelled.

- (2) A suspension order made under subsection (1)(a), (b), (d), (e) or (f) may include a requirement that the provider of the on-demand booking service undertake remedial action.
- (3) The CEO may, by written notice given to the provider of the on-demand booking service, vary or waive a requirement imposed under subsection (2).

**43. Suspension or cancellation order for disqualification offence**

- (1) The CEO may make an order suspending an on-demand booking service authorisation if the provider of the on-demand booking service, a responsible officer of the provider or a close associate of the provider is charged with a disqualification offence.
- (2) The CEO must make an order cancelling an on-demand booking service authorisation if the CEO is satisfied that the provider of the service has been convicted of a disqualification offence.
- (3) The CEO must make an order cancelling an on-demand booking service authorisation if the CEO is satisfied that a responsible officer of the provider of the service has been convicted of a disqualification offence, unless the CEO is satisfied that the continued operation of the service is appropriate in the circumstances.
- (4) The CEO may make an order suspending or cancelling an on-demand booking service authorisation if a close associate of

the provider of the service is convicted of a disqualification offence.

- (5) Subsections (2), (3) and (4) do not apply to a disqualification offence if —
- (a) the conviction for the offence has been quashed or set aside; or
  - (b) the disqualification period prescribed for the purposes of section 46(1) in relation to the offence has passed since the conviction.
- (6) This section extends to a conviction by a court of a disqualification offence whether or not the conviction occurred before the commencement of this section if the disqualification period has not expired before that commencement.

**44. Disqualification if authorisation cancelled for disqualification offence**

- (1) If an on-demand booking service authorisation is cancelled under section 43(2), (3) or (4), the provider is disqualified from holding or obtaining an on-demand booking service authorisation for the period determined in accordance with this section.
- (2) A period of disqualification under subsection (1) —
- (a) commences on the day that the on-demand booking service authorisation is cancelled; and
  - (b) ends when the period of disqualification prescribed in relation to the disqualification offence has expired.
- (3) Despite subsection (2)(b), if a person's conviction for a disqualification offence is quashed or set aside, then the disqualification period ends when the conviction is quashed or set aside.
- (4) Nothing in this section prevents the commencement of a period of disqualification from being postponed under section 45.

**45. Cumulative effect of disqualification**

- (1) This section applies if, when the period for which a person is disqualified (the *new disqualification period*) under section 44(1) would otherwise commence, the person is already disqualified under that section.
- (2) The commencement of the new disqualification period is postponed, and the disqualification does not have effect, until the existing period of disqualification, and any period of disqualification that commences subsequently, has ended.
- (3) Postponing the commencement of the new disqualification period does not reduce the new disqualification period.

**46. Disqualification period and reinstatement**

- (1) A disqualification period (which may be permanent) must be prescribed in relation to each disqualification offence.
- (2) Different periods of disqualification may be prescribed in relation to a disqualification offence depending on any of the following —
  - (a) whether the offence is a first or subsequent offence;
  - (b) the circumstances in which the offence is committed;
  - (c) the length of time that the provider has continuously held an authorisation that is in force when the offence is committed;
  - (d) whether or not the provider has previously been disqualified under section 44(1).
- (3) The regulations may provide for the reinstatement of authorisations, or make any other provision necessary or convenient to be made, to deal with consequences of a conviction for a disqualification offence being quashed or set aside in a case in which an authorisation has been cancelled under section 43(2), (3) or (4) because of the conviction.



**47. Order may be made even if authorisation suspended**

An order may be made under section 42(1) or 43(1), (2), (3) or (4) even if the on-demand booking service authorisation is already suspended when the order is made.

**48. Show cause process**

- (1) Unless section 49 applies, the CEO must not make an order under section 42(1) or 43(1), (3) or (4) unless the CEO has first complied with this section.
- (2) The CEO must serve notice on the provider of the on-demand booking service to show cause within 30 days why the on-demand booking service authorisation should not be suspended or cancelled, as the case may be.
- (3) If the CEO is not satisfied at the end of the 30-day notice period, the order may be made under section 42(1) or 43(1), (3) or (4), as the case requires.
- (4) The CEO may make an order suspending an on-demand booking service authorisation within the 30-day notice period if the CEO considers that the suspension is necessary in the circumstances.

**49. Immediate suspension or cancellation**

The CEO may make an order under section 42(1) or 43(1), (3) or (4) without complying with section 48 if the CEO has reason to believe that the on-demand booking service has been or is being conducted in a manner that causes, or may cause, danger to the public.

**50. Notice of suspension order**

The CEO must give written notice of a suspension order under section 42(1), 43(1) or (4) or 48(4) to the provider of the on-demand booking service stating the following —

- (a) that the on-demand booking service authorisation is suspended;
- (b) the day on which the period of suspension commences;
- (c) the grounds on which the order is made;
- (d) if the order is made under section 42(1), any remedial action that the provider is required to take under section 42(2);
- (e) if the order is made under section 42(1)(a), (b), (d) or (e) or 48(4), that the provider has a right to a review under Part 10.

**51. Period of suspension**

- (1) An on-demand booking service authorisation subject to a suspension order under section 42(1) or 43(1) or (4) is suspended under the order for a period —
  - (a) commencing on the day stated in the notice under section 50(b); and
  - (b) ending on the first of the following to occur —
    - (i) the day stated in a notice of revocation of the suspension order under section 52(4)(b);
    - (ii) the day on which the authorisation is cancelled under this Act;
    - (iii) the day on which the authorisation expires.
- (2) An on-demand booking service authorisation subject to a suspension order under section 48(4) is suspended under the order for a period —
  - (a) commencing on the day stated in the notice under section 50(b); and
  - (b) ending on the first of the following to occur —
    - (i) the day on which the authorisation is suspended or cancelled after the end of the 30-day period referred to in section 48;

- (ii) the day stated in a notice of revocation of the order under section 52(4)(b);
- (iii) the day on which the authorisation is otherwise cancelled under this Act;
- (iv) the day on which the authorisation expires.

**52. Revocation of suspension order**

- (1) The CEO may at any time revoke a suspension order under section 42(1), 43(1) or (4) or 48(4).
- (2) The CEO must revoke a suspension order made under section 48(4) as soon as practicable after the end of the 30-day notice period referred to in section 48 if the CEO decides not to make an order under section 42 or 43.
- (3) The CEO must revoke a suspension order made under section 42(1) as soon as practicable after the CEO becomes satisfied that —
  - (a) if the order includes a requirement under section 42(2) that the provider of the on-demand booking service undertake any remedial action — that action has been undertaken; and
  - (b) the grounds for making the order no longer exist.
- (4) The CEO must give written notice of a revocation of a suspension order under this section to the provider of the on-demand booking service stating the following —
  - (a) that the suspension of the on-demand booking service authorisation has been revoked;
  - (b) the day on which the suspension of the on-demand booking service authorisation under the order ends;
  - (c) the reasons for the revocation.

**53. Notice of cancellation order**

- (1) The CEO must give written notice of a cancellation order under section 42(1) or 43(2), (3) or (4) to the provider of the on-demand booking service stating the following —
  - (a) that the on-demand booking service authorisation is cancelled;
  - (b) the day on which the cancellation takes effect;
  - (c) the grounds on which the order is made;
  - (d) if the order is made under section 43(2), (3) or (4) —
    - (i) that the provider is disqualified from holding or obtaining an on-demand booking service authorisation; and
    - (ii) the period for which the provider is disqualified under section 44;
  - (e) if the order is made under section 42(1)(a), (b), (d) or (e), that the provider has a right to a review under Part 10.
- (2) An on-demand booking service authorisation subject to a cancellation order is cancelled on the day stated in the order.

**Subdivision 2 — Automatic suspension or cancellation**

**54. Automatic suspension: joint authorisation**

If 2 or more persons jointly hold an on-demand booking service authorisation and any one of them dies or ceases to jointly provide the service —

- (a) the authorisation is suspended by force of this section at the end of the period of 21 days after the death or cessation unless the CEO has been notified before the end of that period of the death or cessation; and
- (b) the authorisation may be suspended, cancelled or varied because of the death or cessation.

**55. Automatic suspension: no responsible officer**

- (1) This section applies if —
  - (a) the provider of an authorised on-demand booking service is a body corporate; and
  - (b) the provider ceases to have any directors or managers who are responsible officers for the purposes of this Part.
  
- (2) The on-demand booking service authorisation for the service is suspended by force of this section from the time that the provider ceases to have any directors or managers who are responsible officers until —
  - (a) a new director or manager of the service is nominated in accordance with the regulations; and
  - (b) the CEO advises the provider of the service that the CEO is satisfied that the nominated director or manager is a responsible officer.

## **Part 4 — Regular passenger transport services**

### **Division 1 — Offences**

**56. Provider of regular passenger transport service must be authorised**

- (1) A person commits an offence if —
- (a) the person provides a regular passenger transport service; and
  - (b) the person does not hold a regular passenger transport service authorisation that is in force and authorises the provision of that service.

Penalty for this subsection:

- (a) for an individual, a fine of \$40 000;
  - (b) for a body corporate, a fine of \$200 000.
- (2) Subsection (1) does not apply to a person who provides a regular passenger transport service on behalf of another person who is authorised to provide a regular passenger transport service.

**57. Provider of regular passenger transport service must comply with authorisation conditions**

A provider of a regular passenger transport service must comply with the conditions of the regular passenger transport service authorisation for that service.

Penalty:

- (a) for an individual, a fine of \$40 000;
- (b) for a body corporate, a fine of \$200 000.

**58. Provider of regular passenger transport service must notify CEO if no longer providing service**

A provider of a regular passenger transport service must give written notice to the CEO as soon as practicable if the provider ceases to provide a regular passenger service on any route or routes or in any area or areas specified in the regular passenger transport service authorisation.

Penalty:

- (a) for an individual, a fine of \$5 000;
- (b) for a body corporate, a fine of \$25 000.

**Division 2 — Authorisation**

**59. Application for authorisation to provide regular passenger transport service**

- (1) The following may apply for authorisation to provide a regular passenger transport service —
  - (a) an individual;
  - (b) 2 or more persons who intend to provide the service jointly under a partnership or other agreement;
  - (c) a body corporate incorporated under a law of this or any other jurisdiction including —
    - (i) the *Corporations Act 2001* (Commonwealth); and
    - (ii) the *Associations Incorporation Act 2015*; and
    - (iii) the *Co-operatives Act 2009*;
  - (d) any other prescribed entity.
- (2) An application for authorisation is to be made to the CEO.
- (3) An application must —
  - (a) be in the approved form; and

- (b) contain the following information —
    - (i) the route or routes on which or the area or areas in which it is intended that the service is to operate;
    - (ii) an estimate of the number of vehicles to be used in providing the service;
    - (iii) a description of the kinds of vehicles to be used in providing the service;
    - (iv) an estimate of the maximum number of passengers to be carried by the vehicles proposed to be used;
    - (v) the fares proposed to be charged;
  - and
  - (c) contain the information required by the CEO; and
  - (d) comply with the requirements of the regulations; and
  - (e) be accompanied by the prescribed application fee.
- (4) The CEO may, by written notice given to the applicant, require the applicant to provide further information relevant to the application that is specified in the notice within the time (being not less than 30 days) specified in the notice.

**60. Minister is decision-maker**

The Minister is to make the decision under this Part to grant or to refuse to grant a regular passenger transport service authorisation.

**61. Minister may delegate**

- (1) The Minister may delegate to the CEO or any person employed in, or engaged for the purposes of, the Department any power or duty of the Minister under this Part.
- (2) The delegation must be in writing signed by the Minister.



- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Minister to perform a function through an officer or agent.

**62. Matters Minister may take into account in making decision**

- (1) In making a decision as to whether to grant a regular passenger transport service authorisation, the Minister may take into account all or any of the following matters —
  - (a) the necessity for the service proposed to be provided and the convenience that would be given to the public by the provision of the proposed service;
  - (b) the existing service for the transport of passengers on the route or routes, or within the area or areas, proposed to be served, in relation to —
    - (i) its present adequacy and possibilities for improvement to meet all reasonable public demands; and
    - (ii) the effect on the existing service of the service proposed to be provided;
  - (c) the condition of the roads to be included in the proposed route or routes or area or areas;
  - (d) the qualifications and financial stability of the applicant;
  - (e) the interests of persons requiring transport to be provided and of the community generally.
- (2) The Minister is not required to take into account any matter referred to in subsection (1) in making a decision in relation to a particular application for authorisation.

**63. Grant of authorisation**

The Minister may grant a regular passenger transport service authorisation if the Minister is satisfied that the applicant —

- (a) has complied with the requirements of section 59(3)(a) to (d) and provided the information required under section 59(4); and
- (b) complies with any prescribed criteria; and
- (c) has the capacity to provide the service; and
- (d) has paid the prescribed application fee under section 59(3)(e); and
- (e) has paid the relevant prescribed authorisation fee (if any) for the authorisation within the time for payment required by the CEO.

**64. Grant of temporary authorisation**

(1) The Minister may grant a regular passenger transport service authorisation without prior lodgment of a written application under section 59 if —

- (a) the application is for an authorisation for a particular purpose of limited duration; and
- (b) the Minister is satisfied that sufficient information has been made available to enable the Minister to do so.

(2) An authorisation granted in accordance with this section —

- (a) takes effect when verbal notice is given to the applicant that the authorisation has been granted; and
- (b) is taken not to have taken effect if —
  - (i) the written application complying with section 59 is not provided to the CEO within 14 days of the Minister's decision; or
  - (ii) the information in the written application differs in a material respect from the information

provided to the Minister before the Minister's decision.

**65. Refusal of authorisation**

- (1) Without limiting section 63 or 64, the Minister may refuse to grant a regular passenger transport service authorisation if —
  - (a) the Minister is satisfied that authorisation should not be granted on the basis of any matter to which the Minister has had regard under section 62(1); or
  - (b) the Minister is satisfied that the applicant is not a fit and proper person to be authorised to provide a regular passenger transport service.
- (2) The Minister may have regard to any relevant matters in determining whether an applicant is a fit and proper person to be authorised to provide a regular passenger transport service.

**66. Conditions of authorisation**

A regular passenger transport service authorisation is granted subject to the following conditions —

- (a) any conditions imposed under this Act;
- (b) any conditions that the Minister thinks fit and specifies on the authorisation document or otherwise specifies in writing.

**67. Application for variation of conditions**

- (1) The provider of an authorised regular passenger transport service may apply to the Minister for a variation of the conditions of the regular passenger transport service authorisation imposed by the Minister.
- (2) The application must —
  - (a) be in the approved form; and
  - (b) be accompanied by any documents or other information specified in the approved form; and

- (c) be accompanied by the prescribed application fee.

**68. Variation of conditions**

- (1) The Minister may vary the conditions of a regular passenger transport service authorisation imposed by the Minister if the Minister is satisfied that the variation is appropriate in the circumstances.
- (2) A variation may be made on application under section 67 or on the Minister's own initiative.
- (3) A variation —
  - (a) must be in writing; and
  - (b) may do any of the following —
    - (i) vary existing conditions;
    - (ii) remove existing conditions;
    - (iii) add new conditions.

**69. Application for variation of approved routes and areas**

- (1) The provider of an authorised regular passenger transport service may apply to the Minister to approve a variation to the route or routes or the area or areas approved under the authorisation.
- (2) The application must —
  - (a) be in the approved form; and
  - (b) be accompanied by any documents or other information specified in the approved form; and
  - (c) be accompanied by the prescribed application fee.

**70. Variation of approved routes and areas**

- (1) On an application under section 69, the Minister may approve a variation to the route or routes or area or areas approved under a

regular passenger transport service authorisation if the Minister is satisfied that the variation is appropriate in the circumstances.

- (2) The Minister may, in accordance with the regulations, approve a temporary variation to the route or routes or area or areas approved under a regular passenger transport service authorisation if the Minister is satisfied that the variation is appropriate in the circumstances.
- (3) The Minister may take into account the matters specified in section 62(1) in deciding whether to approve a variation to a route or routes or area or areas under subsection (1) or (2).
- (4) A variation must be in writing.

**71. Notice of decision to refuse or vary**

- (1) The Minister must give an applicant written notice of a decision under section 63, 64 or 65 to refuse to grant a regular passenger transport service authorisation.
- (2) The Minister must give the provider of an authorised regular passenger transport service written notice of a decision —
  - (a) to refuse to grant an application under section 67 for the variation of the conditions of the regular passenger transport service authorisation; or
  - (b) to vary the conditions of the regular passenger transport service authorisation under section 68.
- (3) The Minister must give the provider of an authorised regular passenger transport service written notice of a decision to refuse an application under section 69 or the regulations for the variation of the route or routes or area or areas approved under the regular passenger transport service authorisation.
- (4) In the case of a decision to vary the conditions of a regular passenger transport service authorisation on the Minister's own initiative, the notice must state —
  - (a) the reasons for the decision; and

- (b) that the person has a right to a review under Part 10.

**72. Authorisation document**

- (1) If the Minister grants a regular passenger transport service authorisation, the CEO must issue an authorisation document to the provider of the service.
- (2) The authorisation document must —
- (a) be in the approved form; and
  - (b) identify the provider of the regular passenger transport service; and
  - (c) specify the authorisation number.

**73. Effect of authorisation**

- (1) In this section —
- regular passenger transport vehicle* means a vehicle that is authorised or otherwise permitted under this Act to be operated for use in providing a regular passenger transport service.
- (2) A regular passenger transport service authorisation authorises the holder of the authorisation to provide a regular passenger transport service using regular passenger transport vehicles on the route or routes or in the area or areas approved by the Minister and specified in the authorisation document.
- (3) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 the definition of *licence* paragraph (d), a regular passenger transport service authorisation is declared not to be personal property for the purposes of that Act.

**74. Duration of authorisation**

- (1) A regular passenger transport service authorisation is granted for the prescribed period.

- (2) A regular passenger transport service authorisation may be renewed in accordance with the regulations.
- (3) A regular passenger transport service authorisation remains in force until whichever of the following occurs first —
  - (a) it expires;
  - (b) it is cancelled.
- (4) A regular passenger transport service authorisation is not in force during any period for which it is suspended.

Note for this subsection:

See Division 3 for the suspension of a regular passenger transport service authorisation.

## **75. Application for transfer of authorisation**

- (1) A person or entity who is eligible under section 59(1) to apply for a regular passenger transport service authorisation may apply for approval of the transfer to the person or entity of a regular passenger transport service authorisation.
- (2) An application may only be made under subsection (1) if the provider of the authorised regular passenger transport service consents.
- (3) An application for approval of a transfer of authorisation is to be made to the CEO.
- (4) An application must —
  - (a) be in the approved form; and
  - (b) contain the information required by the CEO; and
  - (c) comply with the requirements of the regulations; and
  - (d) be accompanied by the prescribed application fee.
- (5) The CEO may, by written notice given to the applicant, require the applicant to provide further information relevant to the application that is specified in the notice within the time (being not less than 30 days) specified in the notice.

**76. Matters Minister may take into account in making decision**

- (1) In making a decision as to whether to approve the transfer of a regular passenger transport service authorisation, the Minister may take into account the following matters —
  - (a) the qualifications and financial stability of the applicant;
  - (b) the interests of persons requiring transport to be provided and of the community generally.
- (2) The Minister is not required to take into account any matter referred to in subsection (1) in making a decision in relation to a particular application for approval.

**77. Grant of approval**

- (1) The Minister may grant an approval for the transfer of a regular passenger transport service authorisation if the Minister is satisfied that the applicant —
  - (a) has complied with the requirements of section 75(4)(a) to (c) and provided the information required under section 75(5); and
  - (b) complies with any prescribed criteria; and
  - (c) has the capacity to provide the service; and
  - (d) has paid the prescribed application fee under section 75(4)(d).
- (2) The Minister must not approve a transfer of a regular passenger transport service authorisation if the application seeks a change to the route or routes or area or areas authorised under the authorisation.

**78. Refusal to approve transfer of authorisation**

- (1) Without limiting section 77, the Minister may refuse to approve the transfer of a regular passenger transport service authorisation if —



- (a) the Minister is satisfied that approval should not be granted on the basis of any matter to which the Minister has had regard under section 76; or
  - (b) the Minister is satisfied that the applicant is not a fit and proper person to be authorised to provide a regular passenger transport service.
- (2) The Minister may have regard to any relevant matters in determining whether an applicant for approval is a fit and proper person to be authorised to provide a regular passenger transport service.

### **Division 3 — Suspension and cancellation**

#### **Subdivision 1 — Suspension or cancellation by order**

#### **79. Suspension or cancellation order**

- (1) The Minister may make an order suspending or cancelling a regular passenger transport service authorisation if —
- (a) the Minister is no longer satisfied that the provider of the service meets the requirements for the grant of an authorisation in section 63(b) or (c) or for the transfer of an authorisation in section 77(1)(b) or (c), as the case requires; or
  - (b) the Minister is no longer satisfied that the provider of the service is providing an effective regular passenger transport service on the route or routes or in the area or areas approved under the authorisation; or
  - (c) the provider of the service has failed to comply with any requirements under this Act, including —
    - (i) a condition of the authorisation; and
    - (ii) any duty or obligation imposed on the provider under this Act;
- or

- (d) the authorisation was obtained by fraud or misrepresentation; or
  - (e) the Minister is no longer satisfied that the provider of the service is a fit and proper person to be authorised to provide a regular passenger transport service.
- (2) A suspension order made under subsection (1)(a), (c) or (e) may include a requirement that the provider of the regular passenger transport service undertake remedial action.
- (3) The Minister may, by written notice given to the provider of the regular passenger transport service, vary or waive a requirement imposed under subsection (2).

**80. Order may be made even if authorisation suspended**

An order may be made under section 79(1) even if the regular passenger transport service authorisation is already suspended when the order is made.

**81. Show cause process**

- (1) Unless section 82 applies, the Minister must not make an order under section 79(1) unless the Minister has first complied with this section.
- (2) The Minister must serve notice on the provider of the regular passenger transport service to show cause within 30 days why the regular passenger transport service authorisation should not be suspended or cancelled, as the case may be.
- (3) If the Minister is not satisfied at the end of the 30-day notice period, the order may be made under section 79(1).
- (4) The Minister may make an order suspending a regular passenger transport service authorisation within the 30-day notice period if the Minister considers that the suspension is necessary in the circumstances.

**82. Immediate suspension or cancellation**

The Minister may make an order under section 79(1) without complying with section 81 if the Minister has reason to believe that the regular passenger transport service has been or is being conducted in a manner that causes, or may cause, danger to the public.

**83. Notice of suspension order**

The CEO must give written notice of a suspension order under section 79(1) or 81(4) to the provider of the regular passenger transport service stating the following —

- (a) that the regular passenger transport service authorisation is suspended;
- (b) the day on which the period of suspension commences;
- (c) the grounds on which the order is made;
- (d) if the order is made under section 79(1), any remedial action that the provider is required to take under section 79(2);
- (e) if the order is made under section 79(1)(a), (c) or (e) or 81(4), that the provider has a right to a review under Part 10.

**84. Period of suspension**

- (1) A regular passenger transport service authorisation subject to a suspension order under section 79(1) is suspended under the order for a period —
  - (a) commencing on the day stated in the notice under section 83(b); and
  - (b) ending on the first of the following to occur —
    - (i) the day stated in a notice of revocation of the suspension order under section 85(4)(b);
    - (ii) the day on which the authorisation is cancelled under this Act;

- (iii) the day on which the authorisation expires.
- (2) A regular passenger transport service authorisation subject to a suspension order under section 81(4) is suspended under the order for a period —
  - (a) commencing on the day stated in the notice under section 83(b); and
  - (b) ending on the first of the following to occur —
    - (i) the day on which the authorisation is suspended or cancelled after the end of the 30-day period referred to in section 81;
    - (ii) the day stated in a notice of revocation of the order under section 85(4)(b);
    - (iii) the day on which the authorisation is otherwise cancelled under this Act;
    - (iv) the day on which the authorisation expires.

**85. Revocation of suspension order**

- (1) The Minister may at any time revoke a suspension order under section 79(1) or 81(4).
- (2) The Minister must revoke a suspension order made under section 81(4) as soon as practicable after the end of the 30-day notice period referred to in section 81 if the Minister decides not to make an order under section 79(1).
- (3) The Minister must revoke a suspension order made under section 79(1) as soon as practicable after the Minister becomes satisfied that —
  - (a) if the order includes a requirement under section 79(2) that the provider of the regular passenger transport service undertake any remedial action — that action has been undertaken; and
  - (b) the grounds for making the order no longer exist.

- (4) The Minister must give written notice of a revocation of a suspension order under this section to the provider of the regular passenger transport service stating the following —
- (a) that the suspension of the regular passenger transport service authorisation has been revoked;
  - (b) the day on which the suspension of the regular passenger transport service authorisation under the order ends;
  - (c) the reasons for the revocation.

**86. Notice of cancellation order**

- (1) The Minister must give written notice of a cancellation order under section 79(1) to the provider of the regular passenger transport service stating the following —
- (a) that the regular passenger transport service authorisation is cancelled;
  - (b) the day on which the cancellation takes effect;
  - (c) the grounds on which the order is made;
  - (d) if the order is made under section 79(1)(a), (c) or (e), that the provider has a right to a review under Part 10.
- (2) A regular passenger transport service authorisation subject to a cancellation order is cancelled on the day stated in the order.

**Subdivision 2 — Automatic suspension or cancellation**

**87. Automatic suspension: joint authorisation**

If 2 or more persons jointly hold a regular passenger transport service authorisation and any one of them dies or ceases to jointly provide the service —

- (a) the authorisation is suspended by force of this section at the end of the period of 21 days after the death or cessation unless the CEO has been notified before the end of that period of the death or cessation; and

- (b) the authorisation may be suspended, cancelled or varied because of the death or cessation.

**Subdivision 3 — Cancellation on ceasing to provide service**

**88. Cancellation on ceasing to provide service**

The Minister must cancel a regular passenger transport service authorisation if the holder of the authorisation notifies the Minister that the holder is no longer providing that service.

*[Part 5 (s. 89-119) has not come into operation.]*

## Part 6 — Passenger transport vehicles

### Division 1 — Interpretation

#### 120. Terms used

In this Part —

*operate*, in relation to a vehicle, includes make available for use in transporting passengers for hire or reward;

*owner*, in relation to a vehicle, has the same meaning as it has in the *Road Traffic (Administration) Act 2008* section 5 as if this Part were a road law referred to in that section.

### Division 2 — Offences

#### 121. Driving vehicle without valid vehicle authorisation

- (1) A person commits an offence if —
- (a) the person drives a vehicle for use in providing a passenger transport service; and
  - (b) the vehicle is not authorised under this Part to be operated for use in providing that category of passenger transport service.

Penalty for this subsection: a fine of \$12 000.

- (2) A person does not commit an offence under subsection (1) if —
- (a) an interstate vehicle authorisation is in force in relation to the vehicle; and
  - (b) the person complies with the conditions of that authorisation and with the regulations in driving the vehicle for use in providing the passenger transport service; and
  - (c) the driving occurs within the relevant prescribed period for that authorisation.

- (3) A person does not commit an offence under subsection (1) if —
- (a) the vehicle is being driven in place of an authorised passenger transport vehicle while the authorised vehicle is being repaired and is not in operation; and
  - (b) the vehicle licence for the vehicle under the *Road Traffic (Vehicles) Act 2012* is in force or a vehicle licence is not required for the vehicle because of section 4(5) of that Act; and
  - (c) the vehicle is driven within the period and in accordance with the requirements specified in the regulations.
- (4) It is a defence to a charge of an offence under subsection (1) to prove that the person charged took reasonable steps to ensure that the vehicle was authorised under this Act to be operated for use in providing the category of passenger transport service provided.
- (5) It is a defence to a charge of an offence under subsection (1) for a person to prove that —
- (a) the vehicle was not authorised under this Part to be operated for use in providing a passenger transport service because the vehicle licence for the vehicle was of no effect under the *Road Traffic (Vehicles) Act 2012* section 16 because the owner was disqualified under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 19 or 43 from holding or obtaining a vehicle licence; and
  - (b) the person did not know and could not reasonably be expected to have known of the circumstances referred to in paragraph (a).

**122. Operating vehicle without valid vehicle authorisation**

- (1) A person commits an offence if —
- (a) the person operates a vehicle for use in providing a passenger transport service; and



- (b) the vehicle is not authorised under this Part to be operated for use in providing that category of passenger transport service.

Penalty for this subsection:

- (a) for an individual, a fine of \$12 000;
- (b) for a body corporate, a fine of \$60 000.

- (2) A person commits an offence if —

- (a) the person —
  - (i) causes or permits another person to operate a vehicle for use in providing a passenger transport service; or
  - (ii) is the provider of an on-demand booking service in relation to the operation of the vehicle for use in providing a passenger transport service;

and

- (b) the vehicle is not authorised under this Part to be operated for use in providing that category of passenger transport service.

Penalty for this subsection:

- (a) for an individual, a fine of \$12 000;
- (b) for a body corporate, a fine of \$60 000.

- (3) A person does not commit an offence under subsection (1) or (2) if —

- (a) an interstate vehicle authorisation is in force in relation to the vehicle; and
- (b) the vehicle is operated in accordance with the conditions of that authorisation and with the regulations; and
- (c) the operation of the vehicle occurs within the relevant prescribed period for that authorisation.

- (4) A person does not commit an offence under subsection (1) or (2) if —
- (a) the vehicle is being operated to replace an authorised passenger transport vehicle while the authorised vehicle is being repaired and is not in operation; and
  - (b) the vehicle licence for the vehicle under the *Road Traffic (Vehicles) Act 2012* is in force or a vehicle licence is not required for the vehicle because of section 4(5) of that Act; and
  - (c) the vehicle is operated within the period and in accordance with the requirements specified in the regulations.
- (5) It is a defence to a charge of an offence under subsection (1) or (2) to prove that the person charged took reasonable steps to ensure that the vehicle was authorised under this Act to be operated for use in providing the category of passenger transport service provided.
- (6) It is a defence to a charge of an offence under subsection (1) or (2) for a person to prove that —
- (a) the vehicle was not authorised under this Part to be operated for use in providing a passenger transport service because the vehicle licence for the vehicle was of no effect under the *Road Traffic (Vehicles) Act 2012* section 16 because the owner was disqualified under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 19 or 43 from holding or obtaining a vehicle licence; and
  - (b) the person did not know and could not reasonably be expected to have known of the circumstances referred to in paragraph (a).

**123. Person must comply with authorisation conditions**

A person must not operate an authorised passenger transport vehicle or allow the operation of the vehicle in contravention of the conditions of the passenger transport vehicle authorisation.

Penalty:

- (a) for an individual, a fine of \$12 000;
- (b) for a body corporate, a fine of \$60 000.

**Division 3 — Authorisation**

**124. Application for authorisation**

- (1) The following may apply for a passenger transport vehicle authorisation for a vehicle —
  - (a) the owner of the vehicle;
  - (b) a person authorised by the owner of the vehicle to apply for authorisation of the vehicle.
- (2) An application for authorisation is to be made to the CEO.
- (3) An application must —
  - (a) be in the approved form; and
  - (b) contain the information required by the CEO; and
  - (c) state the category or categories of passenger transport service for which the vehicle is to be operated; and
  - (d) be accompanied by the prescribed application fee.
- (4) The CEO may, by written notice given to the applicant, require the applicant to provide further information relevant to the application that is specified in the notice within the time (being not less than 30 days) specified in the notice.

**125. Categories of passenger transport service**

The categories of passenger transport service for passenger transport vehicle authorisations are as follows —

- (a) on-demand rank or hail passenger transport service;
- (b) on-demand charter passenger transport service;
- (c) regular passenger transport service;
- (d) tourism passenger transport service;
- (e) prescribed passenger transport service.

**126. Requirements for authorisation of vehicle**

The CEO must not grant a passenger transport vehicle authorisation for a vehicle under this Division unless the vehicle meets the requirements specified in the regulations.

**127. Grant of authorisation**

The CEO may grant a passenger transport vehicle authorisation in relation to a vehicle if the CEO is satisfied that —

- (a) the applicant has complied with the requirements of section 124(3)(a) to (c) and provided the information required under section 124(4); and
- (b) the requirements of section 126 have been met; and
- (c) the applicant has paid the prescribed application fee under section 124(3)(d); and
- (d) the applicant has paid the relevant prescribed authorisation fee for the authorisation within the time for payment required by the CEO.

**128. Refusal of authorisation**

- (1) The CEO must refuse to grant a passenger transport vehicle authorisation in relation to a vehicle if another person already holds an authorisation in relation to that vehicle.

- (2) Without limiting section 127, the CEO may refuse to grant a passenger transport vehicle authorisation in relation to a vehicle if the CEO is satisfied that the applicant is not a fit and proper person to hold the authorisation.
- (3) The CEO may have regard to any relevant matters in determining whether an applicant is a fit and proper person to hold the authorisation.

**129. Conditions of vehicle authorisation**

A passenger transport vehicle authorisation is granted subject to the following conditions —

- (a) any conditions imposed under this Act;
- (b) any conditions that the CEO thinks fit and specifies on the authorisation document or otherwise specifies in writing.

**130. Application for variation of conditions**

- (1) The holder of a passenger transport vehicle authorisation may apply to the CEO for the variation of the conditions of the authorisation imposed by the CEO.
- (2) The application must —
  - (a) be in the approved form; and
  - (b) be accompanied by any documents or other information specified in the approved form; and
  - (c) be accompanied by the prescribed application fee.

**131. Variation of conditions**

- (1) The CEO may vary the conditions of a passenger transport vehicle authorisation imposed by the CEO if the CEO is satisfied that the variation is appropriate in the circumstances.
- (2) A variation may be made on application under section 130 or on the CEO's own initiative.

- (3) A variation —
  - (a) must be in writing; and
  - (b) may do any of the following —
    - (i) vary existing conditions;
    - (ii) remove existing conditions;
    - (iii) add new conditions.

**132. Application for variation of categories of passenger transport service**

- (1) The holder of a passenger transport vehicle authorisation may apply to the CEO to vary the authorisation —
  - (a) to add a category of passenger transport service in relation to the vehicle; or
  - (b) to remove a category of passenger transport service in relation to the vehicle.
- (2) The application must —
  - (a) be in the approved form; and
  - (b) be accompanied by any documents or other information specified in the approved form; and
  - (c) be accompanied by the prescribed application fee (if any).

**133. Variation of categories of passenger transport service**

- (1) On an application under section 132, the CEO may vary the passenger transport vehicle authorisation to, as the case requires —
  - (a) remove a category of passenger transport service in relation to the vehicle; or
  - (b) add a category of passenger transport service in relation to the vehicle if the CEO is satisfied that —
    - (i) the requirements of section 132(2) have been met; and

(ii) the vehicle meets the requirements specified in the regulations.

(2) A variation must be in writing.

**134. Notice of decision to refuse or vary**

(1) The CEO must give an applicant written notice of a decision under section 127 or 128(1) or (2) to refuse to grant a passenger transport vehicle authorisation.

(2) The CEO must give the holder of passenger transport vehicle authorisation written notice of a decision —

(a) to refuse to grant an application under section 130 for the variation of the conditions of the passenger transport vehicle authorisation; or

(b) to vary the conditions of the passenger transport vehicle authorisation under section 131; or

(c) to refuse to grant an application under section 132 to vary the passenger transport vehicle authorisation to add or remove a category of passenger transport service.

(3) A notice may be given under this section in relation to 2 or more vehicles if the decision is made for the same reasons for each vehicle.

(4) In the case of a relevant decision the notice must state —

(a) the reasons for the decision; and

(b) that the person has a right to a review under Part 10.

(5) In subsection (4) —

**relevant decision** means a decision —

(a) to refuse to grant a passenger transport vehicle authorisation —

(i) because the CEO is not satisfied as to a matter referred to in section 127(a) or (b); or

- (ii) under section 128(2);
- or
- (b) to impose conditions on a passenger transport vehicle authorisation under section 129(b); or
- (c) to vary the conditions of a passenger transport vehicle authorisation on the CEO's own initiative; or
- (d) to refuse to grant an application to vary the conditions of a passenger transport vehicle authorisation; or
- (e) to refuse to grant an application to vary a passenger transport vehicle authorisation to add or remove a category of passenger transport service.

**135. Authorisation document**

- (1) If the CEO grants a passenger transport vehicle authorisation under this Division, the CEO must issue an authorisation document to the holder of the authorisation.
- (2) The authorisation document must —
  - (a) be in the approved form; and
  - (b) identify the holder of the passenger transport vehicle authorisation; and
  - (c) specify the authorisation number; and
  - (d) identify the vehicle authorised; and
  - (e) specify the category or categories of passenger transport service for which the vehicle is authorised to be operated.

**136. Effect of authorisation**

- (1) A passenger transport vehicle authorisation that specifies that the vehicle can be operated for use in providing an on-demand rank or hail passenger transport service authorises the operation of the vehicle for use in providing that service anywhere in the State for the prescribed period.



- (2) A passenger transport vehicle authorisation that specifies that the vehicle can be operated for use in providing an on-demand charter passenger transport service authorises the operation of the vehicle for use in providing that service anywhere in the State for the prescribed period.
- (3) A passenger transport vehicle authorisation that specifies that the vehicle can be operated for use in providing a regular passenger transport service authorises the operation of the vehicle for use in providing that service anywhere in the State for the prescribed period.
- (4) A passenger transport vehicle authorisation that specifies that the vehicle can be operated for use in providing a tourism passenger transport service authorises the operation of the vehicle for use in providing that service anywhere in the State for the prescribed period.
- (5) A passenger transport vehicle authorisation that specifies that the vehicle can be operated for use in providing a prescribed passenger transport service authorises the operation of the vehicle for use in providing that service in accordance with the regulations for the prescribed period.

**137. Duration of authorisation**

- (1) A passenger transport vehicle authorisation is granted for the prescribed period.
- (2) A passenger transport vehicle authorisation may be renewed in accordance with the regulations.
- (3) A passenger transport vehicle authorisation remains in force until whichever of the following occurs first —
  - (a) it expires;
  - (b) it is cancelled.

- (4) A passenger transport vehicle authorisation is not in force during any period for which it is suspended.

Note for this subsection:

See Division 4 for the suspension of a passenger transport vehicle authorisation.

- (5) A passenger transport vehicle authorisation is not in force in relation to a vehicle during any period that the vehicle licence for the vehicle under the *Road Traffic (Vehicles) Act 2012* is not in force.

**138. Authorisation not transferable**

A passenger transport vehicle authorisation is not transferable.

**Division 4 — Suspension or cancellation**

**Subdivision 1 — Suspension or cancellation by order**

**139. Suspension or cancellation order**

- (1) The CEO may make an order suspending or cancelling a passenger transport vehicle authorisation if —
- (a) the CEO is no longer satisfied that the vehicle meets the requirements for the grant of the authorisation in section 126; or
  - (b) the holder of the authorisation has failed to comply with any requirements under this Act, including —
    - (i) a condition of the authorisation; and
    - (ii) any duty or obligation imposed on the holder under this Act;
- or
- (c) the authorisation was obtained by fraud or misrepresentation; or

- (d) the CEO is no longer satisfied that the holder of the authorisation is a fit and proper person to hold the authorisation.
- (2) A suspension order made under subsection (1)(b) or (d) may include a requirement that the holder of the passenger transport vehicle authorisation undertake remedial action.
- (3) The CEO may, by written notice given to the holder of the passenger transport vehicle authorisation, vary or waive a requirement imposed under subsection (2).
- (4) An order may be made in relation to 2 or more passenger transport vehicle authorisations on the same grounds.

**140. Order may be made even if authorisation suspended**

An order may be made under section 139(1) even if the passenger transport vehicle authorisation is already suspended when the order is made.

**141. Show cause process**

- (1) Unless section 142 applies, the CEO must not make an order under section 139(1) unless the CEO has first complied with this section.
- (2) The CEO must serve notice on the holder of the passenger transport vehicle authorisation to show cause within 30 days why the passenger transport vehicle authorisation should not be suspended or cancelled, as the case may be.
- (3) If the CEO is not satisfied at the end of the 30-day notice period, the order may be made under section 139(1).
- (4) The CEO may make an order suspending a passenger transport vehicle authorisation within the 30-day notice period if the CEO considers that the suspension is necessary in the circumstances.

**142. Immediate suspension or cancellation**

The CEO may make an order under section 139(1) without complying with section 141 if the CEO has reason to believe that the passenger transport vehicle —

- (a) is in a condition that, if driven, is, or may be, a danger to the public; or
- (b) has been or is being operated in a manner that has caused, or may cause, danger to the public.

**143. Notice of suspension order**

The CEO must give written notice of a suspension order made under section 139(1) or 141(4) to the holder of the passenger transport vehicle authorisation stating the following —

- (a) that the passenger transport vehicle authorisation is suspended;
- (b) the day on which the period of suspension commences;
- (c) the grounds on which the order is made;
- (d) if the order is made under section 139(1), any remedial action that the holder is required to take under section 139(2);
- (e) if the order is made under section 139(1)(b) or (d) or 141(4), that the holder has a right to a review under Part 10.

**144. Period of suspension**

- (1) A passenger transport vehicle authorisation subject to a suspension order under section 139(1) is suspended under the order for a period —
  - (a) commencing on the day stated in the notice under section 143(b); and

- (b) ending on the first of the following to occur —
  - (i) the day stated in a notice of revocation of the order under section 145(4)(b);
  - (ii) the day on which the authorisation is cancelled under this Act;
  - (iii) the day on which the authorisation expires.
- (2) A passenger transport vehicle authorisation subject to a suspension order under section 141(4) is suspended under the order for a period —
  - (a) commencing on the day stated in the notice under section 143(b); and
  - (b) ending on the first of the following to occur —
    - (i) the day on which the authorisation is suspended or cancelled after the end of the 30-day period referred to in section 141;
    - (ii) the day stated in a notice of revocation of the order under section 145(4)(b);
    - (iii) the day on which the authorisation is otherwise cancelled under this Act;
    - (iv) the day on which the authorisation expires.

**145. Revocation of suspension order**

- (1) The CEO may at any time revoke a suspension order made under section 139(1) or 141(4).
- (2) The CEO must revoke a suspension order made under section 141(4) as soon as practicable after the end of the 30-day notice period referred to in section 141 if the CEO decides not to make an order under section 139(1).

- (3) The CEO must revoke a suspension order made under section 139(1)(b) or (d) as soon as practicable after the CEO becomes satisfied that —
  - (a) if the order includes a requirement under section 139(2) that the holder of the passenger transport vehicle authorisation undertake any remedial action — that action has been undertaken; and
  - (b) the grounds for making the order no longer exist.
- (4) The CEO must give written notice of a revocation of a suspension order under this section to the holder of the passenger transport vehicle authorisation stating the following —
  - (a) that the suspension of the authorisation has been revoked;
  - (b) the day on which the suspension of the authorisation under the order ends;
  - (c) the reasons for the revocation.

**146. Notice of cancellation order**

- (1) The CEO must give written notice of a cancellation order under section 139(1) to the holder of the passenger transport vehicle authorisation stating the following —
  - (a) that the authorisation is cancelled;
  - (b) the day on which the cancellation takes effect;
  - (c) the grounds on which the order is made;
  - (d) if the order is made under section 139(1)(b) or (d), that the holder has a right to a review under Part 10.
- (2) A passenger transport vehicle authorisation subject to a cancellation order is cancelled on the day stated in the order.

**Subdivision 2 — Automatic cancellation of authorisation**

**147. Cancellation of authorisation: cancellation of vehicle licence**

A passenger transport vehicle authorisation is cancelled in relation to a vehicle if the vehicle licence is cancelled under the *Road Traffic (Vehicles) Act 2012*.

**148. Cancellation of authorisation: transfer of ownership of vehicle**

- (1) This section applies if the ownership of an authorised passenger transport vehicle is transferred to a person other than the holder of the authorisation for the vehicle (the *transferee*).
- (2) The passenger transport vehicle authorisation for the vehicle is cancelled at the end of the prescribed period after the transfer unless the CEO is notified within that period that the transferee has consented to the holder of the authorisation for the vehicle continuing to be the holder of the authorisation.
- (3) The notice to the CEO must —
  - (a) be in the approved form; and
  - (b) contain the information required by the CEO.

**Subdivision 3 — Cancellation of authorisation on request**

**149. Cancellation of authorisation on request**

- (1) The CEO may cancel a passenger transport vehicle authorisation at the request of the owner of the vehicle or the authorisation holder.
- (2) The CEO must give written notice of the cancellation of an authorisation to —
  - (a) the owner of the vehicle; and
  - (b) the holder of the passenger transport vehicle authorisation, if the holder is not the owner of the vehicle.

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- (3) The cancellation of a passenger transport vehicle authorisation takes effect at the end of the relevant prescribed period specified in the notice.



## Part 7 — Confidentiality and exchange of information

### Division 1 — Interpretation

#### 150. Terms used

(1) In this Part —

*disclose* includes to provide, to release and to give access to;

*driver's licence information* means the following —

- (a) information about drivers' licences including —
  - (i) details of the persons who have made applications for or in relation to those licences; and
  - (ii) details of the persons who hold or have held those licences; and
  - (iii) information contained in a driver's licence register maintained under the *Road Traffic (Authorisation to Drive) Act 2008*;

or

- (b) information about driving authorisations (other than drivers' licences) obtained by the road traffic CEO from an authority of another State or a Territory or another country under a road law;

*infringement notice information* means information about infringement notices including information about the following —

- (a) the giving of an infringement notice to a person;
- (b) the payment of an amount of money in accordance with an infringement notice;
- (c) the withdrawal of an infringement notice;
- (d) a matter in relation to which an infringement notice was issued coming before a court for determination;

- (e) the registration of an infringement notice under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* Part 3;
- (f) any withdrawal of proceedings under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* Part 3 in relation to the infringement notice;

***interstate passenger transport authority*** means a person, agency or authority of another State or a Territory that administers or performs functions under an interstate passenger transport law;

***interstate passenger transport law*** means a law of another State or a Territory that corresponds with this Act or a prescribed law;

***law enforcement official*** means a person prescribed, or a person of a class prescribed, by the regulations for the purposes of this definition;

***offence information*** means the following —

- (a) details of the following —
  - (i) any offence with which a person has been charged, or of which a person has been convicted, in the State;
  - (ii) any penalty, suspension, cancellation or disqualification resulting from a conviction referred to in subparagraph (i);
- (b) any details the Commissioner of Police has of the following —
  - (i) any offence with which a person has been charged, or of which a person has been convicted, elsewhere than in the State;
  - (ii) any penalty, suspension, cancellation or disqualification resulting from a conviction referred to in subparagraph (i);

***passenger transport authorisation information*** means —

- (a) information about passenger transport authorisations, including the following —
  - (i) details of the persons who have made applications for or in relation to those authorisations;
  - (ii) details of the persons who hold or have held those authorisations;
  - (iii) details of passenger transport vehicles that are the subject of an application for an authorisation, or that are or were authorised, under Part 6;
  - (iv) details of any decision to refuse to grant an authorisation;
  - (v) details of the suspension or cancellation of any authorisation;
  - (vi) details of any disqualification from holding or obtaining an authorisation;
  - (vii) details of charges and convictions for offences under this Act;
- (b) infringement notice information relating to alleged offences under this Act;
- (c) information relating to whether any of the following is a fit and proper person —
  - (i) an applicant for a passenger transport service authorisation;
  - (ii) a person nominated as a responsible officer by an applicant for, or the holder of, an on-demand booking service authorisation;
  - (iii) the holder of a passenger transport service authorisation;
  - (iv) a responsible officer of the provider of an authorised on-demand booking service;

**relevant authority** means a person prescribed, or of a class prescribed, by the regulations for the purposes of this definition;

**relevant person** means a person who —

- (a) is an applicant for a passenger transport authorisation; or
- (b) holds or has held a passenger transport authorisation; or
- (c) is a person nominated by, or a close associate of, an applicant for, or the holder of, an on-demand booking service authorisation; or
- (d) is a responsible officer of the provider of an on-demand booking service;

**road law** has the meaning given in the *Road Traffic (Administration) Act 2008* section 4;

**road traffic CEO** means the CEO as defined in the *Road Traffic (Administration) Act 2008* section 4;

**traffic infringement notice information** means details of the instances in which a person has paid a penalty under an infringement notice under a road law, obtained by the road traffic CEO from the Commissioner of Police under a road law;

**transport co-ordination CEO** means the Director General as defined in the *Transport Co-ordination Act 1966* section 4(1);

**vehicle licence information** means the following —

- (a) information about vehicle licences including —
  - (i) details of the persons who have made applications for or in relation to those licences; and
  - (ii) details of the persons who hold or have held those licences; and
  - (iii) information contained in the register of vehicle licences referred to in the *Road Traffic (Vehicles) Act 2012*; and

- (iv) details of any defect notices issued in relation to vehicles under the *Road Traffic (Vehicles) Act 2012* Part 6 Division 3;
- (b) information about vehicle authorisations (other than vehicle licences) obtained by the road traffic CEO from an authority of another State, a Territory or another country under a road law.

## **Division 2 — Confidentiality and disclosure of information**

### **151. Confidentiality**

- (1) A person must not disclose any information provided to the person in the performance of a function under this Act except —
  - (a) in the performance of that function or another function under this Act; or
  - (b) in the performance of a function under the *Transport Co-ordination Act 1966* that relates to passenger transport vehicles; or
  - (c) as authorised under this Act or the *Transport Co-ordination Act 1966* in relation to a function referred to in paragraph (a) or (b).

Penalty for this subsection: imprisonment for 12 months or a fine of \$12 000.

- (2) The CEO may publish de-identified data from time to time to provide information to the public about the performance of the passenger transport industry.
- (3) The CEO may provide unpublished de-identified data on request to any person on payment of the prescribed fee.
- (4) Nothing in this section affects the operation of the *Taxation Administration Act 2003* section 114.

**152. CEO may provide authorisation information**

To assist the provider of an authorised on-demand booking service, the provider of a regular passenger transport service or the provider of an authorised passenger transport vehicle to comply with the provider's safety duties under this Act, the CEO may, on request, advise the provider as to whether or not —

- (a) an improvement notice has been issued under Part 8 Division 5 in the prescribed period before the request in relation to the holder of a passenger transport authorisation or a passenger transport vehicle; or
- (b) a defect notice under the *Road Traffic (Vehicles) Act 2012* is in effect in relation to a passenger transport vehicle.

**153. Disclosure of authorisation status of driver**

The CEO may disclose the authorisation status of a passenger transport driver on the Department's website or to any member of the public or any other person in accordance with the regulations.

**154. Disclosure of information about vehicle authorisation**

The CEO may disclose the following information about a passenger transport vehicle authorisation on the Department's website or to any member of the public or any other person —

- (a) the authorisation number and number plate of the vehicle;
- (b) the category of authorisation;
- (c) whether or not the authorisation is in force;
- (d) the conditions imposed on the authorisation by the CEO under section 129.

**155. Use of and access to information provided under this Part**

The CEO may have access to and make use of the following for the purposes of the performance of the CEO's functions under this Act but not for any other purpose —

- (a) information disclosed to or obtained by the CEO under this Part;
- (b) information disclosed to the CEO under the *Road Traffic (Authorisation to Drive) Act 2008*;
- (c) information disclosed to or obtained by the Director General under the *Taxi Act 1994*.

**156. Use of photographs**

The CEO is authorised for the purpose of producing a passenger transport driver authorisation or other identification document for a person required under this Act to use any photograph that was provided by the person —

- (a) under the *Road Traffic (Authorisation to Drive) Act 2008* in connection with the grant of a driver's licence or learner's permit to the person; and
- (b) within 10 years before the grant of the authorisation to the person.

**Division 3 — Exchange of information**

**157. Exchange of information between CEO and Commissioner of Police**

- (1) The CEO must disclose the following information to the Commissioner of Police —
  - (a) passenger transport authorisation information;
  - (b) any other prescribed information.

- (2) Information disclosed under subsection (1) —
  - (a) may be used in the performance of the Commissioner of Police's functions under a written law but not for any other purpose; and
  - (b) may be disclosed by the Commissioner of Police to a police officer for use in the performance of the functions of that officer under this Act or any other written law but not for any other purpose.
- (3) The Commissioner of Police must disclose the following information to the CEO —
  - (a) offence information about a relevant person;
  - (b) any other prescribed information.

**158. Exchange of information between CEO and road traffic CEO**

- (1) The CEO must disclose the following information to the road traffic CEO —
  - (a) passenger transport authorisation information;
  - (b) any other prescribed information.
- (2) The road traffic CEO must disclose the following information to the CEO —
  - (a) driver's licence information about a relevant person;
  - (b) vehicle licence information about a relevant person or about a passenger transport vehicle or alleged passenger transport vehicle;
  - (c) traffic infringement notice information about a relevant person;
  - (d) any other prescribed information.
- (3) Photographs and signatures provided in connection with the grant of drivers' licences or driving authorisations must not be provided under this section except for the purposes referred to in section 156.



**159. Exchange of information between CEO and transport co-ordination CEO**

- (1) The CEO must disclose the following information to the transport co-ordination CEO —
  - (a) passenger transport authorisation information;
  - (b) any other prescribed information.
- (2) The transport co-ordination CEO must disclose the following information to the CEO about a relevant person —
  - (a) information about any offence with which the relevant person has been charged under the *Transport Co-ordination Act 1966*;
  - (b) infringement notice information relating to any infringement notice given to the relevant person for an alleged offence under the *Transport Co-ordination Act 1966*;
  - (c) any other prescribed information.
- (3) The transport co-ordination CEO must disclose to the CEO information about any omnibus or taxi-car licensed under the *Transport Co-ordination Act 1966*.

**160. Exchange of information between CEO and relevant authority**

- (1) The CEO may disclose the following information to a relevant authority if the CEO considers that the information is required by the authority for the purposes of the performance of the authority's functions —
  - (a) passenger transport authorisation information;
  - (b) any other prescribed information.
- (2) The CEO may seek from a relevant authority any information that the CEO considers is required for the purposes of the performance of the CEO's functions under this Act.

**161. Disclosure of information where agreement is made**

The CEO may disclose the following information to a body or person with whom an agreement is made under section 285 if the CEO considers that the information is required for the performance of a function under the agreement —

- (a) passenger transport authorisation information;
- (b) any information disclosed to the CEO under this Division or by an interstate passenger transport authority;
- (c) any other prescribed information.

**162. Disclosure of information to law enforcement official**

The CEO may disclose the following information to a law enforcement official if the CEO considers that the information is required by the official for the purposes of the performance of the official's functions —

- (a) passenger transport authorisation information;
- (b) any other prescribed information.

**163. Disclosure of information to CEO of Public Transport Authority**

The CEO may disclose passenger transport authorisation information to the chief executive officer of the Public Transport Authority established under the *Public Transport Authority Act 2003* to facilitate the provision of effective public transport services in the State.

**164. Exchange of information between CEO and interstate passenger transport authorities**

- (1) The CEO may disclose passenger transport authorisation information to an interstate passenger transport authority if the CEO considers that the information is required by the authority for the purposes of the performance of its functions.

- (2) If information disclosed under subsection (1) includes information about an offence of which a person has been convicted or an alleged offence for which a person has been given an infringement notice, the CEO must also disclose to the interstate passenger transport authority —
- (a) any quashing or setting aside of the conviction; or
  - (b) any withdrawal of the infringement notice or the matter coming before a court for determination; or
  - (c) any withdrawal of proceedings under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* Part 3 in relation to the infringement notice; or
  - (d) anything else known to the CEO concerning the offence or alleged offence the disclosure of which is likely to be favourable to that person.
- (3) The CEO may seek from an interstate passenger transport authority any information that the CEO considers is required for the purposes of the performance of the CEO's functions under this Act.

**165. Disclosures under this Part free of charge**

Subject to section 151(3), a disclosure of information under this Part must be free of charge.

## **Part 8 — Enforcement**

### **Division 1 — Authorised officers**

#### **Subdivision 1 — Designation**

**166. Authorised officers**

- (1) For the purposes of this Act, an authorised officer is —
  - (a) a police officer; or
  - (b) a person designated by the CEO under subsection (2).
- (2) The CEO may designate as an authorised officer a person employed in, or engaged for the purposes of, the Department.
- (3) The CEO must ensure that each authorised officer designated under subsection (2) is issued with an identity card in the approved form.
- (4) An authorised officer designated under subsection (2) must —
  - (a) carry the officer's identity card when performing functions under this Act; and
  - (b) if it is practicable to do so, produce the officer's identity card before exercising a power under this Act.
- (5) In any proceedings, the production of an identity card is evidence of the designation under subsection (2) of the authorised officer to whom the card relates.

#### **Subdivision 2 — General powers**

**167. Term used: relevant person**

In this Subdivision —

*relevant person* means —

- (a) a person who holds or has held an on-demand booking service authorisation or an agent of that person; or

- (b) a person whom an authorised officer suspects on reasonable grounds is or was the provider of an on-demand booking service or an agent of that person; or
- (c) a person who is or was the provider of an associated booking service or an agent of that person; or
- (d) a person whom an authorised officer suspects on reasonable grounds is or was the provider of an associated booking service or an agent of that person; or
- (e) a person who is or was a responsible officer of the provider of an authorised on-demand booking service; or
- (f) a person who is or was an employee of —
  - (i) the provider of an on-demand booking service; or
  - (ii) the provider of an associated booking service;or
- (g) a person who holds or has held a regular passenger transport service authorisation or an agent of that person; or
- (h) a person whom an authorised officer suspects on reasonable grounds is or was the provider of a passenger transport service or an agent of that person; or
- (i) a person who is or was an employee of the provider of a passenger transport service; or
- (j) a person who holds or has held a passenger transport driver authorisation; or
- (k) a person whom an authorised officer suspects on reasonable grounds has driven a vehicle for the purpose of transporting passengers for hire or reward; or
- (l) a person who holds or has held a passenger transport vehicle authorisation or an agent of that person; or

- (m) a person who is or was the owner of a passenger transport vehicle or whom an authorised officer reasonably suspects is or was the responsible person for the vehicle for the purposes of section 174; or
- (n) a person whom an authorised officer suspects on reasonable grounds is the provider of a passenger transport vehicle or an agent of that person; or
- (o) a person who is or was an employee of the provider of a passenger transport vehicle.

**168. Powers of authorised officers: purposes**

An authorised officer may exercise the powers set out in this Subdivision for the following purposes —

- (a) to monitor compliance with this Act;
- (b) to investigate a suspected contravention of this Act;
- (c) to investigate whether there are grounds for suspending or cancelling an authorisation granted under this Act.

**169. Powers in relation to vehicles**

- (1) An authorised officer may do all or any of the following in relation to a vehicle —
  - (a) stop and detain the vehicle for as long as is reasonably necessary for the exercise of any other power of the authorised officer under this Act;
  - (b) direct the person driving the vehicle to produce for inspection any of the following —
    - (i) the person's driver authorisation document;
    - (ii) the person's driver's licence;
    - (iii) any additional identification document issued to the person, or required to be held or displayed by the person, in accordance with the regulations;
  - (c) direct any person to alight from, or not to enter, the vehicle;

- (d) direct the person driving the vehicle, or any passenger, to —
  - (i) give any information that is required; or
  - (ii) answer a question put to the person; or
  - (iii) state the person's name, address and date of birth; or
  - (iv) produce a document or record that is in the person's possession or under the person's control;
- (e) inspect the vehicle and any equipment in or on the vehicle;
- (f) make a still or moving image or recording of the vehicle and anything in or on the vehicle;
- (g) operate a computer or other thing in or on the vehicle;
- (h) make a copy of, take an extract from, download or print out any document or thing;
- (i) seize a document or record and retain it for as long as is reasonably necessary;
- (j) direct the driver of the vehicle, or a person in possession of the vehicle, to give the authorised officer any assistance that the officer reasonably requires for the purposes referred to in section 168.

**170. Directions to relevant persons**

An authorised officer may do all or any of the following —

- (a) direct a relevant person to —
  - (i) give any information that is required; or
  - (ii) answer a question put to the person;
- (b) direct a relevant person to produce a document or record that is in the person's possession or under the person's control;

- (c) make a copy of, take an extract from, download or print out any document or record produced under paragraph (b);
- (d) seize a document or record produced under paragraph (b) and retain it for as long as is reasonably necessary.

**171. Entry of premises**

- (1) An authorised officer may, in accordance with subsection (2), enter premises occupied by a relevant person and do all or any of the following at the premises —
  - (a) search the premises;
  - (b) make a still or moving image or recording of the place and anything in or on the place;
  - (c) operate a computer or other thing at the premises;
  - (d) make a copy of, take an extract from, download or print out any document or record;
  - (e) seize a document or record and retain it for as long as is reasonably necessary;
  - (f) direct the occupier of the place, or a person at the place, to give the authorised officer any assistance that the officer reasonably requires for the purposes referred to in section 168.
- (2) The power to enter premises under subsection (1) must be exercised —
  - (a) with the consent of the occupier; or
  - (b) under an entry warrant issued under Division 2.



**172. Requirement to comply with directions**

If under section 169, 170 or 171 a person is directed to give any information, answer any question or produce any document or record —

- (a) that person cannot refuse to comply with that direction on the ground that the information, answer, document or record may tend to incriminate the person or render the person liable to any penalty; but
- (b) the information or answer given, or document or record produced, by the person is not admissible in evidence in any criminal proceedings against the person other than proceedings for perjury or for providing false or misleading information under this Act.

**173. Assistance to exercise powers**

- (1) An authorised officer may authorise as many other persons to assist in the exercise of the authorised officer's powers under this Subdivision as are reasonably necessary in the circumstances.
- (2) A person so authorised may exercise the power or assist the authorised officer to exercise the power, as the case requires.
- (3) Whether requested to do so or not a person may assist another person to exercise a power under this Subdivision if the person reasonably suspects that the other person —
  - (a) is lawfully entitled to exercise the power; and
  - (b) needs assistance for the purpose of doing so.
- (4) A person who under this section is authorised by another person to exercise a power, or is assisting another person to exercise a power, must obey any lawful and reasonable directions of the other person when exercising or assisting to exercise the power.

- (5) If a person, acting under this section, exercises a power in this Subdivision having been authorised by another person to do so, or assists another person to exercise a power in this Subdivision, any enactment that protects the person or the State from liability for the person's acts or omissions is to be taken to operate as if those acts or omissions included the person's acts or omissions when acting under this section.

**174. Duty to identify driver or person in charge of vehicle**

- (1) In this section —  
*responsible person*, for a vehicle, has the same meaning as it has in the *Road Traffic (Administration) Act 2008* section 4 as if this section were a road law and includes a person to whom possession or control of the vehicle was entrusted at the time of the alleged offence referred to in subsection (2)(a) or (3)(a), as the case may be.
- (2) A responsible person for a vehicle commits an offence if —
- (a) an offence under this Act is alleged to have been committed involving the driving of a vehicle; and
  - (b) an authorised officer requests the responsible person to give information that may lead to the identification of the driver or person in charge of the vehicle at the time of the alleged offence; and
  - (c) the responsible person has, or could reasonably have ascertained, the information; and
  - (d) the responsible person, without lawful excuse, fails to give the information.

Penalty for this subsection:

- (a) for an individual —
  - (i) for a first offence, a fine of \$5 000;
  - (ii) for a subsequent offence, a fine of \$10 000;

- (b) for a body corporate, a fine of \$25 000.
- (3) A responsible person for a vehicle commits an offence if —
- (a) an offence under this Act is alleged to have been committed involving the driving of the vehicle; and
  - (b) an authorised officer requests the responsible person to give information that may lead to the identification of the driver or person in charge of the vehicle at the time of the alleged offence; and
  - (c) the responsible person gives false information in response to the request.

Penalty for this subsection:

- (a) for an individual —
    - (i) for a first offence, a fine of \$5 000;
    - (ii) for a subsequent offence, a fine of \$10 000;
  - (b) for a body corporate, a fine of \$25 000.
- (4) If a person is charged with an offence under subsection (2), the person may be convicted of an offence under section 175.

**175. Duty to take reasonable measures to be able to comply with identity request**

- (1) In this section —

***identity request*** means a request made under this Division for information as to the identity of the person who was driving or in charge of a vehicle at any particular time;

***responsible person***, for a vehicle, has the same meaning as it has in the *Road Traffic (Administration) Act 2008* section 4 as if this section were a road law.

- (2) A responsible person for a vehicle commits an offence if the responsible person fails to take reasonable measures, or make reasonable arrangements, to ensure that if an identity request is made in relation to the vehicle, the responsible person will be able to comply with it.

Penalty for this subsection:

- (a) for an individual —
- (i) for a first offence, a fine of \$5 000;
  - (ii) for a subsequent offence, a fine of \$10 000;
- (b) for a body corporate, a fine of \$25 000.

**176. Offences**

- (1) A person must comply with a direction of an authorised officer given under this Part.

Penalty for this subsection: a fine of \$5 000.

- (2) A person must not wilfully hinder or obstruct an authorised officer in the exercise of a function under this Part.

Penalty for this subsection: a fine of \$5 000.

- (3) A person must not provide false information to, or wilfully mislead, an authorised officer exercising a function under this Part.

Penalty for this subsection: a fine of \$5 000.

- (4) A person must not fail to assist an authorised officer in exercising a function under this Part when required to do so.

Penalty for this subsection:

- (a) for an individual, a fine of \$5 000;
- (b) for a body corporate, a fine of \$25 000.

- (5) Without limiting subsection (2), a person hinders or obstructs an authorised officer if the person refuses or fails to provide, or obstructs the provision of, an on-demand booking service or

on-demand passenger transport service to the authorised officer when sought in the exercise of a function under this Part.

### **Division 2 — Entry warrants**

#### **177. Terms used**

- (1) In this Division —  
*remote communication* means any way of communicating at a distance including by telephone, fax, email and radio.
- (2) A reference in this Division to making an application includes a reference to giving information in support of the application.

#### **178. Application for entry warrant**

- (1) An authorised officer may apply to a JP for an entry warrant authorising the entry of premises for the purposes referred to in section 168.
- (2) The application must be made in accordance with this Division and must include the prescribed information (if any).

#### **179. Application to be in person unless urgent**

- (1) An application must be made in person before a JP unless —
  - (a) the warrant is needed urgently; and
  - (b) the applicant reasonably suspects that a JP is not available within a reasonable distance of the applicant.
- (2) If subsection (1)(a) and (b) apply —
  - (a) the application may be made to the JP by remote communication; and
  - (b) the JP must not grant the application unless satisfied about the matters in subsection (1)(a) and (b).

**180. Application to be in writing unless made remotely**

- (1) An application must be made in writing unless —
  - (a) the application is made by remote communication; and
  - (b) it is not practicable to send the JP written material.
- (2) If subsection (1)(a) and (b) apply —
  - (a) the application may be made orally; and
  - (b) the JP must make a written record of the application and any information given in support of it.

**181. Application to be on oath unless made remotely**

- (1) An application must be made on oath unless —
  - (a) the application is made by remote communication; and
  - (b) it is not practicable for the JP to administer an oath to the applicant.
- (2) If subsection (1)(a) and (b) apply —
  - (a) the application may be made in an unsworn form; and
  - (b) if the JP issues an entry warrant, the applicant must as soon as practicable send the JP an affidavit verifying the application and any information given in support of it.

**182. Form of entry warrant made remotely**

- (1) If on an application made by remote communication a JP issues an entry warrant, the JP must if practicable send a copy of the original warrant to the applicant by remote communication, but otherwise —
  - (a) the JP must send the applicant by remote communication any information that must be set out in the warrant; and
  - (b) the applicant must complete a form of warrant with the information received and give the JP a copy of the form as soon as practicable after doing so; and

- (c) the JP must attach a copy of the form to the original warrant and any affidavit received from the applicant and make them available for collection by the applicant.
- (2) The copy of the original warrant sent, or the form of the warrant completed, as the case may be, under subsection (1) has the same force and effect as the original warrant.

**183. Evidence obtained inadmissible if section 181(2)(b) or 182(1)(b) contravened**

If an applicant contravenes section 181(2)(b) or 182(1)(b), any evidence obtained under the entry warrant is not admissible in proceedings in court or in the State Administrative Tribunal.

**184. Issue and content of entry warrant**

- (1) On application under section 178, a JP may issue an entry warrant if satisfied that it is necessary for the authorised officer to enter premises for purposes referred to in section 168.
- (2) An entry warrant must contain the following information —
  - (a) the applicant's full name and authorisation;
  - (b) a reasonably particular description of the premises to which it relates;
  - (c) a reasonably particular description of the purposes for which entry is required;
  - (d) if a contravention of this Act is suspected — the provision concerned;
  - (e) the period during which it may be executed, which must not be longer than 30 days;
  - (f) the name of the JP who issued it;
  - (g) the date and time when it was issued.
- (3) An entry warrant must be in the prescribed form.

- (4) If a JP refuses to issue an entry warrant, the JP must record on the application the fact of, the date and time of, and the reasons for, the refusal.

**185. Effect of entry warrant**

- (1) An entry warrant has effect according to its content and this section.
- (2) An entry warrant comes into force when it is issued by a JP.
- (3) An entry warrant may be executed by any authorised officer.

**Division 3 — Obtaining business records**

**186. Terms used**

In this Division —

***business*** means any business, including a business of a governmental body or instrumentality or of a local government, or any occupation, trade or calling;

***business record*** means a record prepared or used in the ordinary course of a business for the purpose of recording any matter related to the business;

***order to produce*** means an order issued under section 189.

**187. Application of this Division**

- (1) An order to produce must not be issued under this Division to a person in relation to a business record that relates or may relate to an offence that the person is suspected of having committed.
- (2) This Division does not prevent an authorised officer from applying for an entry warrant in relation to a business record, whether before or after the issue of an order to produce.



**188. Application for order to produce**

- (1) An authorised officer may apply for an order to produce a business record for the following purposes —
  - (a) to investigate a suspected contravention of this Act;
  - (b) to investigate suspected grounds for suspending or cancelling an authorisation granted under this Act.
- (2) An application for an order to produce must be made to a JP in accordance with Division 2, with any necessary changes.
- (3) An application for an order to produce a business record must —
  - (a) state the applicant's full name and authorisation; and
  - (b) state the purpose for which the order is required; and
  - (c) set out the prescribed information (if any); and
  - (d) state the name of the person to whom the order will apply; and
  - (e) state that the person is not suspected of having committed an offence; and
  - (f) describe with reasonable particularity the business record or class of business record that the applicant wants the person to produce; and
  - (g) state the reason the applicant reasonably believes the business record or class of business record is relevant to the investigation; and
  - (h) state whether the original or a copy of the business record or class of business record is required.

**189. Issue of order to produce**

- (1) On an application made under section 188, a JP may issue an order to produce a business record if satisfied that, in relation to each of the matters in section 188(1) that the applicant suspects, there are reasonable grounds for the applicant to have that suspicion.

- (2) An order to produce must contain the following information —
  - (a) the applicant's full name and authorisation;
  - (b) the name of the person to whom the order applies;
  - (c) a reasonably particular description of the business record or class of business record to be produced by the person;
  - (d) an order that the person produce the record or records;
  - (e) whether the original or a copy of the record or records is required;
  - (f) whether a paper, electronic or other version of the record or records is required;
  - (g) the place where the record or records are to be produced;
  - (h) the date on or before which the order must be obeyed, which must allow a reasonable period for the person to obey the order;
  - (i) the name of the JP who issued it;
  - (j) the date and time when it was issued.
- (3) An order to produce must be in the prescribed form.
- (4) If a JP refuses to issue an order to produce, the JP must record on the application the fact of, the date and time of, and the reasons for, the refusal.

**190. Service of order to produce**

- (1) An order to produce must be served on the person to whom it applies as soon as practicable after it is issued.
- (2) An order to produce may be served by personal service or by post or, with the consent of the person to be served, by email or fax or in some other way agreed with the person.

**191. Effect of order to produce**

- (1) An order to produce has effect according to its contents.
- (2) A person who is served with an order to produce and who, without reasonable excuse, does not obey it commits an offence.

Penalty for this subsection:

- (a) for an individual, a fine of \$5 000;
- (b) for a body corporate, a fine of \$25 000.

**192. Powers in relation to order to produce**

- (1) An authorised officer to whom a business record is produced under an order to produce may retain it for a reasonable time to determine its evidentiary value.
- (2) An authorised officer to whom a business record is produced may, if necessary to preserve the evidentiary value of the document or to subject it to forensic analysis —
  - (a) seize the document; and
  - (b) whether or not the document is seized, make a forensic analysis of it; and
  - (c) make and retain a copy of it.
- (3) A person who produces a business record in compliance with an order to produce is not liable to any action or remedy by any person at common law for producing that document.

**Division 4 — Seizing things and related matters**

**Subdivision 1 — Seizing of things**

**193. Application**

This Subdivision applies to and in relation to the seizing under this Part of a thing.

**194. Grounds for seizing things**

If this Part provides that an authorised officer may seize a thing, the authorised officer may do so only if the authorised officer reasonably suspects that it is necessary to seize the thing for one or more of the following purposes —

- (a) to prevent it from being concealed, disturbed or lost;
- (b) to preserve its evidentiary value;
- (c) to subject it to forensic analysis;
- (d) to prevent it from being used in the commission of an offence.

**195. Records relevant to offence**

- (1) If a record may be seized, the authorised officer authorised to seize it may, if practicable, reproduce the record, whether or not in the same form, and instead seize the reproduction.

Example for this subsection:

A record on a computer could be reproduced by printing it out on paper or copying it to a data storage device and the paper or data storage device could then be seized.

- (2) If a record is seized, the authorised officer authorised to seize it may copy or take extracts from the record.
- (3) If a record is seized and a relevant person so requests, the authorised officer must —
  - (a) if it is reasonably practicable to do so, give a copy of the record to the person as soon as practicable after it is seized; or
  - (b) unless the authorised officer reasonably suspects that doing so will jeopardise the evidentiary value of the record, allow the person to inspect the record and to make and keep a copy of it.

- (4) In subsection (3) —  
**relevant person** means a person —
- (a) who appears entitled to possession of the record; and
  - (b) who does not already have a copy of the record.

**196. Seizing of devices and equipment**

If a record may be seized, any device or equipment needed to gain access to, recover or reproduce the information in the record, subject to section 194, may also be seized.

**197. Powers to facilitate seizing of records**

- (1) An authorised officer may exercise a power under this section for the purpose of seizing a record or exercising a power in section 195(1) or (2).
- (2) An authorised officer may operate any device or equipment, whether seized under section 196 or not —
  - (a) that is needed to gain access to, recover, or make a reproduction of, the record; and
  - (b) that is possessed by the person from whom the record may be seized.
- (3) If an authorised officer reasonably suspects that a relevant person knows how to gain access to or operate the device or equipment, the authorised officer may direct the relevant person to provide any information or assistance that is reasonable and necessary to enable the authorised officer to seize the record or exercise the power.
- (4) In subsection (3) —  
**relevant person** means —
  - (a) the person from whom the record may be seized; or
  - (b) an employee (whether under a contract of service or a contract for services) of that person.

**198. List of seized things to be supplied on request**

- (1) If an authorised officer seizes any thing, the following persons may ask the authorised officer for a list of what was seized —
  - (a) the person who had custody or control of the thing before it was seized;
  - (b) the occupier of the premises where it was seized.
- (2) The authorised officer must comply with the request within a reasonable time after it is made.
- (3) If it is not reasonably practicable to list all the things seized because they are too numerous, the list may give a general description of the things that contains as much detail as is reasonably practicable.
- (4) This section does not apply in relation to a record if under section 195 a copy of the record was seized or given to the person making the request.

**Subdivision 2 — Procedure on seizure of privileged material**

**199. Terms used**

In this Subdivision —

*court* means the Magistrates Court;

*privileged* means privileged because of either or both of the following —

- (a) legal professional privilege;
- (b) public interest privilege.

**200. Seizure or production of privileged material**

A record that is seized under this Part or that is produced under an order to produce a business record issued under section 189 must be dealt with in accordance with this Subdivision if —

- (a) a person entitled to possession of the record claims that all or some of the information in it is privileged; or

- (b) the authorised officer seizing the record or to whom it is produced reasonably suspects that all or some of the information in it is privileged.

**201. Record to be secured**

The record must be secured in a manner —

- (a) that prevents it from being concealed, disturbed or lost; and
- (b) that preserves its evidentiary value; and
- (c) that prevents access to the information in it by any person who would not be entitled to access to the information if it were privileged.

**202. Application to court**

- (1) The authorised officer in charge of the investigation must apply to the court to decide whether the information is privileged and must deliver the record into the custody of the court.
- (2) The application must be made in accordance with rules of court and must be served on the person entitled to possession of the record or, if the identity or whereabouts of the person is unknown, on any person directed by the court to be served.
- (3) The application may, if the court thinks fit, be heard in private.
- (4) The applicant and any person entitled to possession of the record are entitled to be heard on the application.

**203. Decision of court**

- (1) For the purpose of deciding the application the court may have access to all of the information in the record.
- (2) If the court decides that all of the information is not privileged, the court must make the record available to be collected by the applicant.

- (3) If the court decides that all of the information is privileged, the court must make the record available to be collected by the person from whom it was seized.
- (4) If the court decides that some of the information is privileged, the court must make orders to enable the applicant to have access to the information in the record that is not privileged.

**204. Forensic examination on record**

- (1) This section applies if —
  - (a) the court decides under section 203 that all or some of the information is privileged; and
  - (b) the applicant has applied to be permitted to do a forensic examination on the record.
- (2) The court must make orders that enable the forensic examination to be done on the record and to ensure that any information in it that is privileged remains privileged.

**205. Ancillary orders**

After making a decision under section 203, the court may make any orders it thinks fit —

- (a) as to costs; and
- (b) as to securing the record or suspending the operation of any orders made under this section, until an appeal against the determination is commenced and dealt with.

**206. Proceedings part of criminal jurisdiction**

Proceedings under this Subdivision are part of the court's criminal jurisdiction.

**207. Appeals**

Subject to the *Criminal Appeals Act 2004* Part 2, an appeal lies against a decision made by the court under this Subdivision.



**Subdivision 3 — Return or disposal of seized things**

**208. Return or disposal of seized things**

- (1) The CEO may authorise the return of any thing seized under this Part to —
  - (a) the owner or person entitled to the possession of the thing; or
  - (b) the person from whom the thing was seized.
- (2) The CEO may dispose of any thing seized under this Part if —
  - (a) the CEO has taken reasonable steps to return the thing to a person; and
  - (b) any of the following applies —
    - (i) the CEO has been unable to locate the person, despite making reasonable efforts;
    - (ii) the person has refused to take possession of the thing;
    - (iii) the CEO has contacted the person about the return of the thing and the person has not refused to take possession of the thing but has not taken possession of the thing within 1 month of the contact.
- (3) The CEO may dispose of the thing in any manner the CEO thinks appropriate.

**Division 5 — Improvement notices**

**209. Issue of improvement notices**

- (1) This section applies if an authorised officer reasonably believes that a person —
  - (a) is contravening a provision of this Act; or

- (b) has contravened a provision of this Act in circumstances that make it likely that the contravention will be continued or repeated.
- (2) The authorised officer may, by giving written notice to a person, issue an improvement notice requiring the person to —
  - (a) remedy the contravention; or
  - (b) prevent a likely contravention from occurring; or
  - (c) remedy the things or operations causing the contravention or likely contravention.

**210. Contents of improvement notices**

- (1) An improvement notice must state —
  - (a) that the authorised officer believes that the person —
    - (i) is contravening a provision of this Act; or
    - (ii) has contravened a provision of this Act in circumstances that make it likely that the contravention will be continued or repeated;
  - and
  - (b) the provision that the authorised officer believes is being or has been contravened; and
  - (c) briefly, how the provision is being or has been contravened; and
  - (d) the day by which the person must comply with the requirements of the notice.
- (2) An improvement notice must state that the person has a right to a review under Part 10.
- (3) An improvement notice may include directions concerning the measures to be taken to remedy the contravention or prevent the likely contravention or the matters or activities causing the contravention or the likely contravention to which the notice relates.

- (4) An improvement notice may include directions prohibiting or restricting a person from driving a vehicle to transport passengers for hire or reward or prohibiting or restricting the use of a passenger transport vehicle or any other activity until the measures required to remedy a contravention or prevent a likely contravention have been taken.
- (5) The measures referred to in subsection (3) may include a requirement that the measures be taken to the satisfaction of an authorised officer.
- (6) The day stated for compliance with the improvement notice must be reasonable in all the circumstances.

**211. Compliance with improvement notice**

- (1) The person to whom an improvement notice is issued must comply with the notice within the period stated in the notice or that time as extended under section 212.

Penalty for this subsection:

- (a) for an individual, a fine of \$5 000;
  - (b) for a body corporate, a fine of \$25 000.
- (2) A person must not drive a vehicle for the purpose of transporting passengers for hire or reward or allow a vehicle to be driven for that purpose if the driving of the vehicle is prohibited under an improvement notice.

Penalty for this subsection:

- (a) for an individual, a fine of \$12 000;
- (b) for a body corporate, a fine of \$60 000.

**212. Extension of time for compliance with improvement notice**

- (1) In this section —

*compliance period* means the period ending on the day stated in an improvement notice by which a person is to comply with the

requirements of the notice and includes that period as extended by this section.

- (2) This section applies if a person has been issued with an improvement notice.
- (3) An authorised officer may, by written notice given to the person, extend the compliance period for the improvement notice.
- (4) However, the authorised officer may extend the compliance period only if the period has not ended.

**213. Affixing sticker to vehicle**

- (1) This section applies if an improvement notice is issued in relation to a vehicle, including a notice that includes directions referred to in section 210(3).
- (2) An authorised officer may affix, in a conspicuous place on the vehicle, a sticker in a form approved by the CEO indicating that an improvement notice has been issued in relation to the vehicle.
- (3) A person must not remove a sticker affixed on a vehicle under subsection (2) until —
  - (a) the improvement notice is complied with; or
  - (b) an authorised officer permits the removal of the sticker.Penalty for this subsection: a fine of \$5 000.
- (4) Subsection (3) does not apply to a person who is repairing the vehicle if —
  - (a) it is reasonably necessary to remove the sticker to rectify a defect specified in the improvement notice; and
  - (b) the person re-affixes the undamaged sticker to the vehicle when the defect has been rectified; and
  - (c) the vehicle is not driven on a road until the undamaged sticker has been re-affixed.

## Division 6 — Controlled operations

### 214. Term used: controlled operation

In this Division —

*controlled operation* means an operation carried out under this Division —

- (a) to monitor compliance with this Act; or
- (b) to investigate —
  - (i) a suspected contravention of this Act; or
  - (ii) whether there are grounds for suspension or cancellation of a passenger transport authorisation because the holder of the authorisation is not a fit and proper person; or
  - (iii) whether there are grounds for suspension or cancellation of an on-demand booking service authorisation because a responsible officer of the provider of the on-demand booking service is not a fit and proper person.

### 215. Controlled operations officers

- (1) The CEO may authorise a person employed in, or engaged for the purposes of, the Department to be a controlled operations officer for the purpose of a controlled operation.
- (2) The identity or purpose of a controlled operations officer may, for the time being, be concealed or misrepresented for the purpose of a controlled operation.

### 216. Controlled operations

- (1) A controlled operation is to be conducted under the direction of an authorised officer using one or more controlled operations officers.

- (2) Subject to subsection (3), a controlled operations officer may take any or all of the actions specified in the authorisation given by the CEO in accordance with subsection (4) for the purpose of the controlled operation.
- (3) Subsection (2) does not permit the taking of an action that involves inducing or encouraging another person to engage in criminal activity of a kind that the other person could not reasonably have been expected to engage in unless so induced or encouraged.
- (4) For the purposes of this section, the CEO may authorise the following actions in relation to any vehicle or vehicles that are authorised as passenger transport vehicles or that are operated or suspected by the authorised officer or the controlled operations officer of being operated for the purpose of transporting passengers for hire or reward —
  - (a) entry and travel in the vehicle;
  - (b) booking a journey in the vehicle;
  - (c) paying for a journey in the vehicle;
  - (d) any action that is ancillary to an action referred to in paragraphs (a), (b) and (c).
- (5) An authorisation under subsection (4) does not have to identify the passenger transport vehicle or vehicles.
- (6) If a controlled operations officer takes any action that is specified in the authorisation given by the CEO for the purpose of the controlled operation, the controlled operations officer, the CEO and the authorised officer directing the operation do not commit an offence and are not liable to an offence committed by another person.
- (7) If a controlled operations officer takes any action that is specified in the authorisation given by the CEO for the purpose of the controlled operation, the controlled operations officer's evidence in any proceedings against a person in connection with

which the controlled operations officer took the action is not the evidence of an accomplice.

**217. Reports of controlled operations**

The CEO must, when requested to do so, give the Minister a written report containing any particulars of a controlled operation that the Minister requires.

**Division 7 — Offences**

**218. Liability of officers of body corporate for offence by body**

(1) In this section —

*officer*, in relation to a body corporate, has the meaning given in the *Corporations Act 2001* (Commonwealth) section 9.

(2) This section applies to —

- (a) a provision listed in the Table; or
- (b) a provision of the regulations that is prescribed for the purposes of this section.

**Table**

s. 27(1)	s. 28
s. 56(1)	s. 57
s. 58	s. 91(1)
s. 93	s. 122(1) and (2)
s. 123	s. 151(1)
s. 174(2) and (3)	s. 175(2)
s. 191(2)	s. 211(1) and (2)
s. 288	

- (3) If a body corporate is guilty of an offence to which this section applies, an officer of the body corporate is also guilty of the offence if the officer failed to take all reasonable steps to prevent the commission of the offence by the body corporate.
- (4) In determining whether things done or omitted to be done by the officer constitute reasonable steps, a court must have regard to —
  - (a) what the officer knew, or ought to have known, about the commission of the offence by the body corporate; and
  - (b) whether the officer was in a position to influence the conduct of the body corporate in relation to the commission of the offence; and
  - (c) any other relevant matter.

**219. Further provisions relating to liability of officers of body corporate**

- (1) Section 218 does not affect the liability of a body corporate for any offence.
- (2) Section 218 does not affect the liability of an officer, or any other person, under Chapters II, LVII, LVIII and LIX of *The Criminal Code*.
- (3) An officer of a body corporate may be charged with, and convicted of, an offence in accordance with section 218 whether or not the body corporate is charged with, or convicted of, the principal offence committed by the body corporate.
- (4) If an officer of a body corporate who is charged with an offence in accordance with section 218 claims that the body corporate would have a defence if it were charged with the offence —
  - (a) the onus of proving the defence is on the officer; and
  - (b) the standard of proof required is the standard that would apply to the body corporate in relation to the defence.



- (5) Subsection (4) does not limit any other defence available to the officer.

**220. When prosecution can be commenced**

- (1) A prosecution of a person for an offence under this Act, other than an offence prescribed under the regulations as an offence to which subsection (2) applies, must be commenced within 2 years after the date on which the offence was allegedly committed.
- (2) A prosecution of a person for an offence prescribed under the regulations for the purposes of this subsection, must be commenced within 12 months after the date on which the offence was allegedly committed.
- (3) This section does not apply to an offence under section 21 or 22.

**Division 8 — Evidentiary provisions**

**221. Evidentiary certificates: records and authorisation**

- (1) A certificate may be issued under this section for any of the following purposes —
- (a) a prosecution for an offence under any written law;
  - (b) any legal proceedings under this Act;
  - (c) to verify the accuracy of information provided to an interstate passenger transport authority under Part 7.
- (2) The CEO may issue a certificate stating that a fact specified in the certificate appears in or is derived from a register or record kept by the CEO under this Act.
- (3) The CEO may issue a certificate stating any of the following —
- (a) that on a specified date or during a specified period a person was or was not authorised as —
    - (i) the provider of an on-demand booking service;or

- (ii) the provider of a regular passenger transport service; or
    - (iii) a passenger transport driver; or
    - (iv) the provider of a passenger transport vehicle;
  - (b) that on a specified date a specified passenger transport authorisation was or was not granted, renewed, varied, suspended or cancelled;
  - (c) that on a specified date a vehicle was or was not authorised as a passenger transport vehicle in relation to a specified category of passenger transport service.
- (4) The CEO may issue a certificate stating any of the following —
- (a) that a person named in the certificate was, at the time or during the period specified in the certificate, a person authorised under section 215 to act as a controlled operations officer;
  - (b) that a person named in the certificate was, at the time or during the period specified in the certificate, authorised under section 216(4) to take an action specified in the certificate.
- (5) A certificate purporting to be issued under this section is evidence and, in the absence of evidence to the contrary, proof of any fact stated in the certificate.

**222. Evidentiary certificates: specific matters**

- (1) A certificate may be issued under this section for the following purposes —
- (a) any legal proceedings under this Act;
  - (b) to verify the accuracy of information provided to an interstate passenger transport authority under Part 7.

- (2) The CEO or a person authorised by the CEO may issue a certificate stating —
- (a) that on a specified date or during a specified period, a specified passenger transport authorisation was subject to specified conditions; or
  - (b) that on a specified date or during a specified period, a specified regular passenger transport authorisation applied to specified routes or within specified areas; or
  - (c) that on a specified date or during a specified period, a specified passenger transport vehicle authorisation applied to a specified category of passenger transport service; or
  - (d) that on a specified date a person was disqualified from holding or obtaining an on-demand booking service authorisation or a passenger transport driver authorisation for a specified period; or
  - (e) that a specified exemption granted under this Act did or did not apply to a specified person or a specified vehicle at a specified time; or
  - (f) that a specified requirement imposed under this Act did or did not apply to a specified person or a specified vehicle at a specified time; or
  - (g) that a specified person had or had not notified the CEO of a change of address; or
  - (h) that a specified document was or was not lodged, or a specified fee was or was not paid, by a specified person.
- (3) A certificate purporting to be issued under this section is evidence and, in the absence of evidence to the contrary, proof of any fact stated in the certificate.

**223. Proof of certain matters not required in legal proceedings**

- (1) In the absence of evidence to the contrary, proof is not required in any legal proceedings under this Act of the fact that the

defendant is, or at any relevant time was, the owner of any vehicle in question or a responsible person (as defined in section 174(1)) for that vehicle.

- (2) In the absence of evidence to the contrary, proof is not required in any proceedings for an offence under this Act, that the person by whom the prosecution was commenced was authorised to commence the prosecution.

**224. Proof of appointments and signatures unnecessary**

- (1) In this section —  
*office holder* means —
  - (a) the CEO; or
  - (b) a controlled operations officer.
- (2) For the purposes of this Act it is not necessary to prove the appointment or authorisation of an office holder.
- (3) For the purposes of this Act a signature purporting to be the signature of an office holder or an authorised officer is evidence of the signature it purports to be.

**Division 9 — Infringement notices and the *Criminal Procedure Act 2004***

**225. Infringement notices and the *Criminal Procedure Act 2004***

- (1) If this Act is a prescribed Act for the purposes of the *Criminal Procedure Act 2004* Part 2, this section applies in relation to the service of an infringement notice under that Part by an authorised officer in relation to an alleged offence under this Act and the effect of that Part.
- (2) The infringement notice must be served within —
  - (a) 21 days after the authorised officer forms the opinion that there is sufficient evidence to support the allegation of the offence; and

- (b) 6 months after the alleged offence is believed to have been committed.
- (3) The *Criminal Procedure Act 2004* sections 11 to 13 do not apply to an alleged offence under this Act.
- (4) The payment of the whole or part of a modified penalty under an infringement notice for an alleged offence under this Act may be taken into account by the CEO as if it were a conviction of the offence in determining whether a person is a fit and proper person —
  - (a) to be the holder of a passenger transport authorisation;  
or
  - (b) to be a responsible officer of the provider of an on-demand booking service.
- (5) The *Criminal Procedure Act 2004* Part 2 is modified to the extent necessary to give effect to this section.

**Part 9 — Voluntary buyback and ~~adjustment~~ industry  
assistance ~~payment~~ schemes and levy**

*[Heading inserted: No. 10 of 2020 s. 5.]*

**Division 1 — Voluntary buyback payment**

**226. Terms used**

(1) In this Division —

***area restricted plates*** means taxi plates used or to be used on a taxi operated subject to conditions restricting the operation of the taxi to specified areas;

***conventional taxi plates*** means taxi plates used, or to be used, on a taxi except —

- (a) a taxi operated subject to conditions restricting the operation of the taxi to specified peak times or areas; and
- (b) a multi-purpose taxi;

***eligible former owner***, of taxi plates, means a person who —

- (a) was the owner, or had an interest in the ownership, of the taxi plates on or after 1 January 2016; and
- (b) was not the owner, and did not hold an interest in the ownership, of the taxi plates on 2 November 2017;

***eligible owner (buyback)***, of taxi plates, means a person who —

- (a) is the owner, or has an interest in the ownership, of the taxi plates; and
- (b) was the owner, or had an interest in the ownership, of the taxi plates on 2 November 2017;

***floor payment*** means —

- (a) in relation to conventional taxi plates — \$100 000; or
- (b) in relation to MPT plates — \$100 000; or
- (c) in relation to area restricted plates — \$40 000; or

(d) in relation to peak period plates — \$28 000;

**GST** has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth);

**Hardship Fund** means the Hardship Fund established by the Government for the taxi industry in 2016;

**Hardship Fund payment** means a payment from the Hardship Fund;

**MPT plates** means taxi plates used on a multi-purpose taxi;

**multi-purpose taxi** means a taxi that is intended principally for the transport of persons who have a disability and any wheelchairs or other aids required by those persons;

**net loss**, associated with taxi plates, has the meaning given in section 227;

**outstanding fees** means fees prescribed for the purposes of the *Taxi Act 1994* section 19(1) or 24 that are payable and have not been paid;

**peak period plates** means taxi plates used, or to be used, on a taxi operated subject to conditions restricting the operation of the taxi to peak times;

**plate purchase amount**, of taxi plates, or an interest in taxi plates, has the meaning given in section 228;

**taxi** means a vehicle that is used for the purpose of standing or plying for hire, or otherwise for the carrying of passengers for reward, but does not include a taxi-car or omnibus licensed under the *Transport Co-ordination Act 1966*;

**taxi plates** means a set of taxi number plates issued or acquired under the *Taxi Act 1994* but does not include taxi plates held under a lease within the meaning of that Act.

- (2) In this Division a reference to the purchase or sale of taxi plates includes a reference to the purchase or sale of an interest in taxi plates.

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- (3) In this Division a reference to the owner of taxi plates includes a reference to the estate of a deceased owner of taxi plates.
- (4) In this Division a reference to taxi plates does not include taxi plates surrendered under an agreement under the *Taxi Act 1994* section 30I.

**227. Net loss**

- (1) In this Division, *net loss*, in relation to conventional taxi plates and MPT plates, means the plate purchase amount of the plates less the sum of the following —
  - (a) \$355 multiplied by the number of weeks between the date of purchase of the plates and 31 December 2015;
  - (b) \$225 multiplied by the number of weeks the taxi plates were owned between 1 January 2016 and 2 November 2017;
  - (c) the amount of any adjustment assistance grant paid in relation to the taxi plates under the *Taxi Act 1994* Part 3A.
- (2) In this Division, *net loss*, in relation to area restricted plates, means the plate purchase amount of the plates less the sum of the following —
  - (a) \$142 multiplied by the number of weeks between the date of purchase of the plates and 31 December 2015;
  - (b) \$90 multiplied by the number of weeks the taxi plates were owned between 1 January 2016 and 2 November 2017;
  - (c) the amount of any adjustment assistance grant paid in relation to the taxi plates under the *Taxi Act 1994* Part 3A.
- (3) In this Division, *net loss*, in relation to peak period plates, means the plate purchase amount of the plates less the sum of the following —



- (a) \$100 multiplied by the number of weeks between the date of purchase of the plates and 31 December 2015;
- (b) \$63 multiplied by the number of weeks the taxi plates were owned between 1 January 2016 and 2 November 2017;
- (c) the amount of any adjustment assistance grant paid in relation to the taxi plates under the *Taxi Act 1994* Part 3A.

**228. Plate purchase amount**

- (1) In this Division, ***plate purchase amount*** of taxi plates means —
  - (a) unless subsection (5) applies, the purchase price paid for the taxi plates —
    - (i) by tender under the *Taxi Act 1994*; or
    - (ii) on transfer under the *Taxi Act 1994*; or
    - (iii) as consideration under an agreement under the *Taxi Act 1994* section 30I;
  - or
  - (b) if subsection (5) applies, the amount determined under that subsection.
- (2) In this Division, ***plate purchase amount*** of an interest of a person in taxi plates means the amount arrived at after —
  - (a) adding together the amount of the original purchase price of the taxi plates apportioned to that interest and the purchase price of any additional interest in the taxi plates the person acquired subsequently; and
  - (b) deducting the transfer price of any part of the interests referred to in paragraph (a) that the person has transferred subsequently to another person.
- (3) In this section the purchase price of taxi plates or an interest in taxi plates excludes —

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- (a) any duty under the *Duties Act 2008* paid in connection with the transfer of ownership of the taxi plates or the interest; and
  - (b) any input tax credits the purchaser received or is entitled to under the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth).
- (4) Subsection (5) applies if the CEO is satisfied that there is insufficient information available to determine the purchase price paid for taxi plates by tender under the *Taxi Act 1994* or on transfer under that Act.
- (5) The CEO may determine the plate purchase amount for the taxi plates on the basis of the average value (according to records held by the Department) of plate purchases for the year the taxi plates were purchased.

**229. Application for buyback payment**

- (1) An eligible owner (buyback) of taxi plates may apply for a buyback payment in relation to the taxi plates.
- (2) The application must be made to the CEO in the approved form on or before the prescribed day.
- (3) If the application is in relation to taxi plates owned by 2 or more eligible owners, the application must be made jointly by the eligible owners.
- (4) An applicant must provide any additional information that the CEO may require for the proper consideration of the application.
- (5) The CEO may require any information provided with an application to be verified by statutory declaration.

**230. Requirement to grant buyback payment**

- (1) The CEO must, by written notice, grant a buyback payment in relation to taxi plates if —

- (a) the applicant, or if a joint application, each applicant, is an eligible owner (buyback) of the taxi plates; and
  - (b) no other buyback payment in relation to the taxi plates has been granted.
- (2) Any right of a person to ownership of taxi plates ceases to exist on the grant of the buyback payment in relation to the taxi plates.
- (3) If the right of a person to ownership of the taxi plates ceases to exist under this section, no compensation is payable by the State to any other person who has an interest in the taxi plates or the use of the taxi plates because the right of ownership of the taxi plates ceases to exist.

**231. Amount of buyback payment: taxi plates purchased on or after 1 January 2016**

- (1) This section applies to determine a buyback payment in relation to taxi plates purchased on or after 1 January 2016.
- (2) Subject to section 233, the buyback payment for the taxi plates is to be determined in accordance with the following formula —

$$BP = A - (B + C)$$

where —

- A is the plate purchase amount for the taxi plates;
- B is any outstanding fees in relation to the taxi plates;
- BP is the buyback payment for the taxi plates;
- C is any Hardship Fund payment paid to an owner of the taxi plates.

**232. Amount of buyback payment: taxi plates purchased before 1 January 2016 and held at 2 November 2017**

- (1) This section applies to determine a buyback payment in relation to taxi plates purchased before 1 January 2016 and held at 2 November 2017.
- (2) Subject to section 233, the buyback payment for the taxi plates is to be determined in accordance with the following formula —

$$BP = A - (B + C)$$

where —

- A is the greater of the floor payment for the taxi plates and the net loss associated with the taxi plates;
- B is any outstanding fees in relation to the taxi plates;
- BP is the buyback payment for the taxi plates;
- C is any Hardship Fund payment paid to an owner of the taxi plates.

**233. Provisions relating to determining buyback payments**

- (1) An amount of Hardship Fund payment is to be deducted under section 231 or 232 only to the extent that the deduction results in the buyback payment being reduced to zero.
- (2) If an amount of Hardship Fund payment has already been deducted for a buyback payment or net loss payment for 1 or more other sets of taxi plates of which an applicant for the buyback payment was an eligible owner (buyback) or an eligible former owner, the Hardship Fund payment referred to in section 231(2) or 232(2) is the balance of the Hardship Fund payment remaining after that deduction or those deductions.
- (3) If an eligible owner (buyback) of the taxi plates would be liable to pay GST in relation to a buyback payment determined in accordance with section 231(2) or 232(2), the amount of the

buyback payment is to be increased by an amount equivalent to the GST liability relevant to the payment.

- (4) If a joint application is made for a buyback payment in relation to taxi plates and a Hardship Fund payment was paid to one or more of the applicants, the CEO, in determining the buyback payment under section 231 or 232 —
- (a) may apportion the buyback payment among the applicants according to their respective interests without deducting any Hardship Fund payment; and
  - (b) may then deduct any Hardship Fund payment from the portion of each person who received the payment to determine the final buyback payment payable to that person.

**234. Payment of buyback payment**

- (1) The buyback payment in relation to taxi plates is to be paid —
- (a) to the applicant; or
  - (b) subject to subsection (2), if the application specifies a person who is to receive the payment on behalf of the eligible owners of the taxi plates — to that person.
- (2) If, under section 233(4), the eligible owners of taxi plates to which a joint application applies are entitled to different amounts of buyback payment, the relevant portion of the buyback payment is to be made to each applicant separately.

**235. Application for net loss payment**

- (1) An eligible former owner of taxi plates may apply for a net loss payment in relation to the taxi plates.
- (2) The application must be made to the CEO in the approved form on or before the prescribed day.
- (3) The application may be made jointly by 2 or more eligible former owners of the taxi plates.

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- (4) An applicant must provide any additional information that the CEO may require for the proper consideration of the application.
- (5) The CEO may require any information provided with an application to be verified by statutory declaration.

**236. Requirement to grant net loss payment**

The CEO must, by notice in writing, grant an application for a net loss payment in relation to taxi plates if —

- (a) the applicant, or if a joint application, each applicant, is an eligible former owner of the taxi plates; and
- (b) no other application for a net loss payment in relation to the taxi plates has been granted to the eligible former owner.

**237. Amount of net loss payment: taxi plates purchased on or after 1 January 2016 and sold before 2 November 2017**

- (1) This section applies to determine a net loss payment in relation to taxi plates purchased on or after 1 January 2016 and sold before 2 November 2017.
- (2) Subject to section 239, the net loss payment for the taxi plates is to be determined in accordance with the following formula —

$$\text{NLP} = A - (B + C + D)$$

where —

- A is the plate purchase amount for the taxi plates;
- B is any outstanding fees in relation to the taxi plates;
- C is any Hardship Fund payment paid to an owner of the taxi plates;
- D is the amount received for the sale of the taxi plates, excluding any GST liability incurred in connection with the sale;

NLP is the net loss payment for the taxi plates.

**238. Amount of net loss payment: taxi plates purchased before 1 January 2016 and sold on or after 1 January 2016 and before 2 November 2017**

- (1) This section applies to determine a net loss payment in relation to taxi plates purchased before 1 January 2016 and sold on or after 1 January 2016 and before 2 November 2017.
- (2) Subject to section 239, the net loss payment for the taxi plates is to be determined in accordance with the following formula —

$$\text{NLP} = A - (B + C + D)$$

where —

- A is the greater of the floor payment for the taxi plates and the net loss associated with the taxi plates;
- B is any outstanding fees in relation to the taxi plates;
- C is any Hardship Fund payment paid to an owner of the taxi plates;
- D is the amount received for the sale of the taxi plates, excluding any GST liability incurred in connection with the sale;

NLP is the net loss payment for the taxi plates.

**239. Provisions relating to determining net loss payments**

- (1) An amount of Hardship Fund payment is to be deducted under section 237 or 238 only to the extent that the deduction results in the net loss payment being reduced to zero.
- (2) If an amount of Hardship Fund payment has already been deducted for a net loss payment or buyback payment for 1 or more other sets of taxi plates of which an applicant for the net loss payment was an eligible former owner or eligible owner (buyback), the Hardship Fund payment referred to in

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section 237(2) or 238(2) is the balance of the Hardship Fund payment remaining after that deduction or those deductions.

- (3) If the eligible former owner of taxi plates would be liable to pay GST in relation to a net loss payment determined in accordance with section 237(2) or 238(2) the amount of the net loss payment is to be increased by an amount equivalent to the GST liability relevant to the payment.
- (4) If a joint application is made for a net loss payment and a Hardship Fund payment was paid to one or more of the applicants, the CEO, in determining the net loss payment under section 237 or 238 —
  - (a) may apportion the net loss payment among the applicants according to their respective interests without deducting any Hardship Fund payment; and
  - (b) may then deduct any Hardship Fund payment from the portion of each person who received the payment to determine the final net loss payment payable to that person.

**240. Payment of net loss payment**

- (1) The net loss payment in relation to taxi plates is to be paid —
  - (a) to the applicant; or
  - (b) subject to subsection (2), if the application specifies a person who is to receive the payment on behalf of the eligible former owners of the taxi plates — to that person.
- (2) If, under section 239(4), the eligible former owners of taxi plates to which a joint application applies are entitled to different amounts of net loss payment, the relevant portion of the net loss payment is to be made to each applicant separately.



## Division 2 — On-demand passenger transport levy

### Subdivision 1 — Preliminary

#### 241. Terms used

In this Division —

*assessment period*, in relation to a prescribed class of on-demand booking service or prescribed class of provider of an on-demand booking service, means the period determined by the CEO for that class of service or provider for the purposes of this Division;

*levy area* means the area consisting of —

- (a) the metropolitan region as defined in the *Planning and Development Act 2005* section 4(1); and
- (b) the Mandurah local government district; and
- (c) the Murray local government district;

*levy fare* means a fare calculated in accordance with the regulations for the purposes of the levy;

*relevant journey* means a journey that starts and finishes in the levy area (whether or not a part of the journey is carried out outside the levy area).

#### 242. Meaning of terms

The Glossary at the end of the *Taxation Administration Act 2003* defines or affects the meaning of some words and expressions used in this Division and also affects the operation of other provisions.

#### 243. Relationship with *Taxation Administration Act 2003*

- (1) The *Taxation Administration Act 2003* is to be read with this Division as if they formed a single Act.
- (2) The regulations may modify the operation of the *Taxation Administration Act 2003* for the purposes of this Division.

**Subdivision 2 — On-demand passenger transport levy**

**244. Leviable passenger service transactions**

- (1) The following are leviable passenger service transactions for the purposes of this Division —
  - (a) taking a booking for an on-demand vehicle to be used in providing an on-demand passenger transport service to a person (whether the passenger transport service is to be provided by the provider who takes the booking or another person) for a relevant journey;
  - (b) prescribed passenger service transactions.
- (2) The regulations may provide that passenger service transactions of a specified kind or by a specified kind of booking service provider are not leviable passenger service transactions.
- (3) If the provider of an associated booking service takes a booking for an on-demand vehicle to be used in providing an on-demand passenger transport service, the provider of the principal booking service under the association arrangement is, for the purposes of this Division, taken to have taken that booking in place of the provider of the associated booking service.
- (4) This section does not apply to a booking for a vehicle that is equipped to seat more than 12 adult persons, including the driver of the vehicle.

**245. On-demand passenger transport levy**

- (1) A levy called the on-demand passenger transport levy is payable in relation to leviable passenger service transactions.
- (2) The levy is payable in accordance with this Division.
- (3) The levy is imposed.
- (4) The amount of the levy is 10% of the levy fare for the on-demand passenger transport service to which each leviable

passenger service transaction relates to a maximum of \$10 for each leviable passenger service transaction.

*[Section 245 amended: No. 27 of 2018 s. 4.]*

**246. When levy payable**

- (1) A person who, during any assessment period (the *relevant assessment period*), was the provider of an on-demand booking service, is liable to pay, on or before the specified day, the levy calculated in accordance with section 245 in relation to each leviable passenger service transaction by the provider that occurred in the relevant assessment period.
- (2) In subsection (1) —  
*specified day* means —
  - (a) the last day of the following assessment period; or
  - (b) any other day that is specified by the CEO.
- (3) A day specified by the CEO under subsection (2) must not be earlier than the day on or before which the return for the relevant assessment period is to be provided under section 250.
- (4) For the purposes of this Division, a leviable passenger service transaction (other than a prescribed passenger service transaction) occurs when the on-demand passenger transport service to which the booking relates is completed.
- (5) For the purposes of this Division, a prescribed passenger service transaction occurs at the prescribed time.
- (6) This Division does not apply in relation to any booking made before this Division comes into operation.
- (7) A person who is liable to pay the levy must pay the levy within the time required under subsection (1).

Penalty for this subsection: a fine of \$5 000.

**247. Calculation on estimated basis if amount based on actual transactions cannot be determined**

- (1) If it is not reasonably practicable to determine the whole or part of the amount of levy payable based on actual levy fares or leviable passenger service transactions or both during an assessment period, the amount payable may be calculated on an estimated basis in accordance with the regulations.
- (2) The CEO is to determine whether or not it is reasonably practicable to determine the whole or part of the amount of levy payable based on actual levy fares or leviable passenger service transactions or both during an assessment period.
- (3) The CEO may issue written guidelines for the purposes of subsection (2) for use by persons who may be liable to pay the levy.

**248. Passenger service transactions for which levy is not payable**

- (1) A person is not liable to pay the levy for taking a booking for an on-demand vehicle to be used in providing an on-demand passenger transport service if —
  - (a) the on-demand passenger transport service is not provided for any reason; or
  - (b) another provider is already liable to pay the levy for taking a booking to provide the service.
- (2) The taking of a booking for an on-demand vehicle to be used in providing an on-demand passenger transport service to transport more than one passenger, or that results in the passengers being transported to different locations, is taken to be one leviable passenger service transaction unless separate fares are charged.

**Subdivision 3 — Miscellaneous**

**249. Registration of liable persons**

- (1) A provider of an on-demand booking service who is liable to pay the levy must apply to the CEO in accordance with this section and the regulations to be registered as a taxpayer for the purposes of this Division.

Penalty for this subsection: a fine of \$20 000.

- (2) An application is to be in an approved form.
- (3) The CEO may cancel the registration of a person as a taxpayer for the purposes of this Division if the CEO is satisfied that the person is not, or is no longer, liable to pay the levy.

**250. Returns**

- (1) A person who is registered as a taxpayer for the purposes of this Division, or who is required to apply for registration under section 249, must lodge a return in accordance with the regulations with the CEO for each assessment period.

Penalty for this subsection: a fine of \$5 000.

- (2) The return for an assessment period (the *relevant assessment period*) must be lodged on or before —
- (a) subject to paragraph (b), the last day of the following assessment period; or
  - (b) if another day has been specified by the CEO, that other day.
- (3) A day specified by the CEO under subsection (2) must not be less than 1 month after the end of the relevant assessment period.

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**251. Keeping of records**

A person who is registered as a taxpayer for the purposes of this Division, or who is required to apply for registration under section 249, must keep —

- (a) the records that are prescribed for the purposes of this section; and
- (b) any other records necessary to enable the CEO to determine the person's liability to pay the levy.

Penalty: a fine of \$20 000.

**252. Information sharing**

- (1) The CEO may enter into an arrangement with the Commissioner of State Revenue for the purpose of sharing information held by either of them that is relevant to liability for or payment of the levy or is otherwise connected with the levy.
- (2) Under an information sharing arrangement, each party to the arrangement is, despite any other provision of this Act or other law of the State, authorised —
  - (a) to request and receive information held by the other party to the arrangement; and
  - (b) to disclose information to the other party or a person specified in the arrangement, but only to the extent that the information is sought or disclosed to assist in the administration and collection of the levy.
- (3) This section does not limit the operation of any law under which the CEO or the Commissioner of State Revenue is authorised or required to disclose information to another person or body.

**253. Functions of CEO**

- (1) The CEO may exercise any functions delegated to the CEO by the Commissioner of State Revenue under the *Taxation Administration Act 2003* in relation to this Division.

- (2) A function that is delegated to the CEO under the *Taxation Administration Act 2003* in relation to this Division is taken while the delegation is in effect —
- (a) to be a function of the CEO under this Act; and
  - (b) not to be a function of the Commissioner of State Revenue under the *Taxation Administration Act 2003* to the extent that it relates to this Division.
- (3) Nothing in subsection (2)(b) prevents the Commissioner of State Revenue or an investigator under the *Taxation Administration Act 2003* from exercising any function under —
- (a) Part 8 of that Act in relation to this Division; or
  - (b) Part 2 of that Act that is required or convenient to be exercised in relation to the exercise of the functions under Part 8 of that Act in relation to this Division.
- (4) The CEO may delegate any functions delegated to the CEO under the *Taxation Administration Act 2003* in relation to this Division to any person to whom the CEO may delegate a function under section 284.
- (5) Section 284(2) to (5) apply to a delegation under subsection (4) as if it were a delegation under section 284(1).

**254. Powers of authorised officers**

- (1) For the purpose of determining liability for the levy and other matters related to the payment or collection of the levy, an authorised officer may exercise the functions conferred by Part 8.
- (2) For the purpose of subsection (1), Part 8 applies as if a reference in that Part to a purpose specified in that Part were a reference to the purpose referred to in subsection (1).

**255. Conditions**

It is a condition of the authorisation of the provider of an on-demand booking service who is liable to pay the levy that the provider pays the levy in accordance with this Division and the regulations under this Division.

**256. Recovery of amounts of fares allocated for levy**

- (1) A person who is liable to pay the levy may give an on-demand driver or other person who collects amounts paid for fares that relate to leviable passenger service transactions reasonable directions as to the collection or payment of any amount of fare allocated for the levy.
- (2) A person who is liable to pay the levy may recover any amount allocated for the levy in a fare that relates to a leviable passenger service transaction from the on-demand driver or other person who collects amounts paid for those fares.
- (3) The amount referred to in subsection (2) may be recovered in a court of competent jurisdiction as a debt owing to the person liable to pay the levy.
- (4) This section applies to the payment or recovery of an amount allocated to the levy in a fare whether the amount of levy payable was calculated on the basis of the actual levy fare or on an estimated basis in accordance with section 247.

**257. Cessation of levy**

- (1) The levy is not payable for any leviable passenger service transaction that occurs on or after the levy repeal day.
- (2) The Minister may by notice published in the *Gazette* specify the levy repeal day.
- (3) A notice under this section cannot be amended or revoked after the levy repeal day specified in the notice.



**Division 2A — COVID-19 relief payments**

*[Heading inserted: No. 10 of 2020 s. 6.]*

**257A. Terms used**

In this Division —

*COVID-19 relief payment* has the meaning given in section 257B(1);

*eligible industry participant*, in relation to a COVID-19 relief payment, means a relevant industry participant who —

- (a) is of the class specified in the determination under section 257B(1) for the COVID-19 relief payment; and
- (b) meets the eligibility criteria for the COVID-19 relief payment set out in that determination;

*relevant industry participant* means the holder of an on-demand booking service authorisation or a passenger transport vehicle authorisation.

*[Section 257A inserted: No. 10 of 2020 s. 6.]*

**257B. Minister may determine that COVID-19 relief payment is payable**

(1) The Minister may, by notice published in the *Gazette*, determine that a payment (a *COVID-19 relief payment*) is payable to relevant industry participants of a specified class for the purpose of providing relief to those participants from the economic effects of the COVID-19 pandemic.

(2) A determination under subsection (1) must set out —

- (a) the eligibility criteria that apply to the COVID-19 relief payment; and
- (b) either —
  - (i) the amount of the COVID-19 relief payment; or
  - (ii) a method for calculating the amount of the COVID-19 relief payment.

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(3) The Minister may make more than 1 determination under subsection (1).

(4) The Minister may, by notice published in the *Gazette*, amend or revoke a determination under subsection (1).

*[Section 257B inserted: No. 10 of 2020 s. 6.]*

**257C. Grant of COVID-19 relief payment**

(1) Subject to subsection (2), the CEO must, by written notice, grant a COVID-19 relief payment to an eligible industry participant if —

(a) the determination under section 257B(1) for the COVID-19 relief payment is in force; and

(b) no other COVID-19 relief payment under that determination has been granted to the eligible industry participant.

(2) If the CEO requires an application to be made for the COVID-19 relief payment, the payment is not required to be granted unless the eligible industry participant applies for the payment —

(a) in the approved form; and

(b) on or before the date required by the CEO.

(3) An applicant for a COVID-19 relief payment to which subsection (2) applies must provide any additional information that the CEO may require for the proper consideration of the application.

(4) The CEO may require any information provided with an application to be verified by statutory declaration.

*[Section 257C inserted: No. 10 of 2020 s. 6.]*

**257D. Amount and payment of COVID-19 relief payment**

(1) The amount of a COVID-19 relief payment is —

(a) if the amount of the payment is set out under section 257B(2)(b)(i) — that amount; or

(b) if a method for calculating the amount of the payment is set out under section 257B(2)(b)(ii) — an amount determined by the CEO according to that method.

(2) A COVID-19 relief payment is to be paid to the eligible industry participant to whom it is granted.

(3) No more than 1 COVID-19 relief payment may be paid to an eligible industry participant under the same determination under section 257B(1).

[Section 257D inserted: No. 10 of 2020 s. 6.]

**Division 3 — Adjustment assistance grants**

**258. Terms used**

In this Division —

***eligible licensee*** means a person who —

(a) is the holder of a relevant licence; and

(b) obtained the relevant licence —

(i) before 17 March 2018; or

(ii) on or after 17 March 2018 if the application under the *Transport (Country Taxi-car) Regulations 1982* regulation 11(2) for the transfer of the licence to that person was made before that day;

***relevant licence*** means a licence that —

(a) was issued under the *Transport Co-ordination Act 1966* Part IIIB to operate a taxi-car in —

(i) the Mandurah local government district; or

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- (ii) the Murray local government district;  
and
- (b) is not a temporary taxi-car licence as defined in the *Transport (Country Taxi-car) Regulations 1982* regulation 4 as in force on the day on which this section comes into operation.

**259. Application for adjustment assistance grant**

- (1) An eligible licensee may apply for an adjustment assistance grant in relation to a relevant licence.
- (2) The application must be made to the CEO in the approved form on or before the prescribed day.
- (3) If the application is in relation to a relevant licence held by 2 or more eligible licensees, the application must be made jointly by the eligible licensees.
- (4) An applicant must provide any additional information that the CEO may require for the proper consideration of the application.
- (5) The CEO may require any information provided with an application to be verified by statutory declaration.

**260. Requirement to grant adjustment assistance**

The CEO must, by written notice, grant an application for adjustment assistance in relation to a relevant licence if —

- (a) the applicant, or if a joint application, each applicant, is an eligible licensee; and
- (b) no other application for adjustment assistance in relation to the licence has been granted.

**261. Amount of adjustment assistance grant**

- (1) The amount of an adjustment assistance grant is \$10 000.

- (2) An adjustment assistance grant is to be paid to —
- (a) the applicant; or
  - (b) if the application specifies a person who is to receive the grant on behalf of the eligible licensees of the licence — that person.
- (3) No more than one adjustment assistance grant may be paid in relation to the same licence.

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*[Heading inserted: No. 10 of 2020 s. 7.]*

**261A. Terms used**

In this Division —

*eligible taxi-car operator*, in relation to a relevant licence, means a taxi-car operator who meets the eligibility criteria determined under section 261B(1)(a) for a regional assistance payment in relation to the licence;

*relevant licence* means a licence that —

- (a) was issued under the *Transport Co-ordination Act 1966* Part IIIB before that Part was repealed on 2 July 2019; and
- (b) was not a temporary taxi-car licence as defined in the *Transport (Country Taxi-car) Regulations 1982* regulation 4 as in force immediately before 2 July 2019;

*taxi-car operator*, in relation to a relevant licence, means a person who, immediately before 2 July 2019 —

- (a) either —
  - (i) held the relevant licence; or
  - (ii) was a party to an agreement to acquire the relevant licence from the holder of the relevant licence;

and

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(b) was —

(i) carrying on a business for the operation of a taxi-car under the authority of the relevant licence; or

(ii) leasing rights under the relevant licence to another person who was carrying on such a business.

[Section 261A inserted: No. 10 of 2020 s. 7.]

**261B. Minister to determine eligibility criteria and calculation method for regional assistance payment**

(1) The Minister must, by notice published in the *Gazette*, determine —

(a) the eligibility criteria for a regional assistance payment in relation to a relevant licence; and

(b) a method for calculating the amount of a regional assistance payment; and

(c) the due date for applications for regional assistance payments.

(2) Different eligibility criteria may be determined under subsection (1)(a) for different classes of taxi-car operators.

(3) The calculation method determined under subsection (1)(b) may take into account any matters that the Minister considers appropriate, including any of the following —

(a) when the relevant licence was acquired or the agreement for the acquisition was made;

(b) the amount paid in relation to the acquisition or agreement to acquire the relevant licence;

(c) the estimated profits that could have been made in connection with the relevant licence;

(d) any subsidy or other amount that has previously been paid to the eligible taxi-car operator;

(e) any fees or other amounts relating to the relevant licence that are unpaid;

(f) estimates of any amounts referred to in paragraphs (b) to (e) made by reference to averages or other relevant information.

(4) The Minister may, by notice published in the *Gazette*, amend a determination under subsection (1).

*[Section 261B inserted: No. 10 of 2020 s. 7.]*

**261C. Application for regional assistance payment**

(1) An eligible taxi-car operator may apply for a regional assistance payment in relation to a relevant licence.

(2) If the application is in relation to a relevant licence for which there are 2 or more eligible taxi-car operators, the application must be made jointly by the eligible taxi-car operators.

(3) The application must be made to the CEO in the approved form on or before the due date determined under section 261B(1)(c).

(4) An applicant must provide any additional information that the CEO may require for the proper consideration of the application.

(5) The CEO may require any information provided with an application to be verified by statutory declaration.

*[Section 261C inserted: No. 10 of 2020 s. 7.]*

**261D. Requirement to grant regional assistance payment**

The CEO must, by written notice, grant an application for a regional assistance payment in relation to a relevant licence if —

(a) the applicant, or if a joint application, each applicant, is an eligible taxi-car operator; and

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(b) no other application for a regional assistance payment in relation to the licence has been granted; and

(c) no more than 4 other applications for regional assistance payments have been granted to the applicant, or if a joint application, to the joint applicants.

[Section 261D inserted: No. 10 of 2020 s. 7.]

**261E. Amount and payment of regional assistance payment**

(1) The amount of a regional assistance payment is to be determined by the CEO according to the calculation method determined under section 261B(1)(b).

(2) A regional assistance payment is to be paid to —

(a) the applicant; or

(b) if the application specifies a person who is to receive the payment on behalf of the eligible taxi-car operators for the licence — that person.

(3) No more than 1 regional assistance payment may be paid in relation to the same relevant licence.

(4) No more than 5 regional assistance payments may be paid in relation to the same applicant or, in the case of joint applications, the same joint applicants.

[Section 261E inserted: No. 10 of 2020 s. 7.]



## Part 10 — Review of decisions

### 262. Term used: Reviewable decisions

In this Division —

*reviewable decision* means a decision —

- (a) to refuse to grant a passenger transport authorisation under —
  - (i) section 31(1)(a), (b) or (c); or
  - (ii) section 32(1)(a), (b), (c), (d), (e) or (f); or
  - (iii) section 96(a) or (b); or
  - (iv) section 97(1)(b); or
  - (v) section 127(a) or (b); or
  - (vi) section 128(2);or
- (b) to impose conditions on an authorisation under section 33(b), 98(1)(b) or 129(b); or
- (c) to refuse to grant an application under section 34, 99 or 130 for the variation of conditions of an authorisation; or
- (d) to vary the conditions of an authorisation under section 35, 68, 100 or 131 on the CEO's or Minister's own initiative; or
- (e) to refuse to grant an application under section 132 to vary a passenger transport vehicle authorisation to add or remove a category of passenger transport service; or
- (f) to make a suspension order under —
  - (i) section 42(1)(a), (b), (d) or (e); or
  - (ii) section 48(4); or
  - (iii) section 79(1)(a), (c) or (e); or
  - (iv) section 81(4); or

- (v) section 106(1)(a), (b) or (d); or
  - (vi) section 107(b); or
  - (vii) section 109(4); or
  - (viii) section 139(1)(b) or (d); or
  - (ix) section 141(4);
- or
- (g) to make a cancellation order under —
    - (i) section 42(1)(a), (b), (d) or (e); or
    - (ii) section 79(1)(a), (c) or (e); or
    - (iii) section 106(1)(a), (b) or (d); or
    - (iv) section 139(1)(b) or (d);
- or
- (h) to issue an improvement notice under section 209; or
  - (i) that is prescribed for the purposes of this section.

**263. Reconsideration of reviewable decisions**

- (1) A person aggrieved by a reviewable decision may request the decision-maker in writing to reconsider the decision.
- (2) A request under subsection (1) must be made within —
  - (a) 28 days after the decision-maker gives the person notice under this Act of the reviewable decision; or
  - (b) a longer period that is allowed by the decision-maker.
- (3) A request for reconsideration must state the decision that the aggrieved person wants the decision-maker to make after reconsideration of the reviewable decision and outline why the decision-maker should make that decision.
- (4) Within 28 days after receiving the request, the decision-maker must reconsider the reviewable decision and —
  - (a) confirm the decision; or
  - (b) amend the decision; or

- (c) set aside the decision and make a new decision.
- (5) The decision-maker must, in writing, inform the person who made the request —
  - (a) of the result of the reconsideration; and
  - (b) if the decision-maker does not make the decision sought by the person —
    - (i) of the reasons for the decision made on reconsidering the reviewable decision; and
    - (ii) that the person may apply to the State Administrative Tribunal for a review of the decision.

**264. Application to State Administrative Tribunal for review**

- (1) A person aggrieved by a reviewable decision, or the decision made by the decision-maker under section 263(4) on reconsidering a reviewable decision, may apply to the State Administrative Tribunal for a review of the decision by which the person is aggrieved.
- (2) An application under subsection (1) must be made within 28 days after being notified of the decision for which a review is sought.

## **Part 11 — Regulations**

### **Division 1 — General**

#### **265. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may be made in relation to the following —
  - (a) the matters set out in this Part;
  - (b) the accessibility of passenger transport services to different classes of passengers;
  - (c) forms for the purposes of this Act;
  - (d) fees and charges payable in relation to any matter under this Act, including the following —
    - (i) applications;
    - (ii) the grant of authorisations (including by way of renewal);
    - (iii) the variation of authorisations or conditions of authorisations;
    - (iv) the issue or replacement of authorisation documents and any other documents issued under this Act;
    - (v) the provision of information to vary an authorisation;
    - (vi) matters relating to the issue or management of vehicle number plates;
  - (e) conferring functions or discretionary authority on the CEO;

- (f) exempting any person, or class of person, or matter from the requirements of this Act, including imposing conditions on an exemption;
- (g) providing that a contravention of a regulation is an offence and providing for a penalty not exceeding a fine of \$12 000 for an individual and \$40 000 for a body corporate.

**266. Regulations may refer to published documents**

- (1) In this section —

*code* means a code, standard, rule, specification or other document, published in or outside Australia, that does not by itself have legislative effect in this State;

*subsidiary legislation* includes rules, regulations, instructions, local laws and by-laws.

- (2) Regulations may adopt, either wholly or in part or with modifications —

- (a) any code; or
- (b) any subsidiary legislation made, determined or issued under any other Act or under any Act of the Commonwealth, another State or a Territory.

- (3) The adoption may be by —

- (a) incorporating the code or subsidiary legislation in the regulations; or
- (b) incorporating the code or subsidiary legislation by reference.

- (4) If the regulations adopt by reference a code or subsidiary legislation, other than any subsidiary legislation to which the *Interpretation Act 1984* section 41 applies —

- (a) the code or subsidiary legislation is adopted as existing or in force when the regulations are made; and

- (b) any amendments made to the code or subsidiary legislation after the regulations are made have no legal effect as part of the regulations unless they are specifically adopted by later regulations or a later amendment to the regulations.
- (5) If regulations adopt by reference any subsidiary legislation to which the *Interpretation Act 1984* section 41 applies, the subsidiary legislation is adopted as existing or in force from time to time.
- (6) Subsections (4) and (5) do not apply if regulations state that a particular text is adopted.
- (7) If regulations adopt by reference a code or subsidiary legislation to which subsection (4) applies, the CEO must —
  - (a) ensure that a copy of the code or subsidiary legislation, including any amendments made to it from time to time that have been adopted, is available, without charge, for public inspection; and
  - (b) if the code or subsidiary legislation, or any part of the code or subsidiary legislation, is in a language other than English, ensure that an accurate English translation of the code or subsidiary legislation, or of the relevant part, is also available, without charge, for public inspection; and
  - (c) publish a notice in the *Gazette* giving details of where those documents may be inspected or obtained.

### **Division 2 — Safety standards**

#### **267. Safety standards for providers of on-demand booking services**

- (1) The regulations may specify safety standards for providers of on-demand booking services.

- (2) Safety standards may be specified in relation to any of the following —
- (a) drivers, including the following —
    - (i) driving authorisation and licensing requirements;
    - (ii) competence and qualifications;
    - (iii) driving records and criminal records;
    - (iv) identification;
    - (v) fitness and medical requirements;
    - (vi) reporting of changes in health and other matters relating to health;
  - (b) on-demand vehicles used or to be used in providing on-demand passenger transport services, including the following —
    - (i) safety of vehicles;
    - (ii) vehicle authorisation and licensing requirements;
    - (iii) maintenance and security and other requirements;
  - (c) insurance;
  - (d) the payment of fares, including the form of payment;
  - (e) reporting of safety incidents and accidents;
  - (f) records relating to vehicles, drivers and bookings;
  - (g) provision of information to passengers;
  - (h) safety management systems.
- (3) Subsection (2) does not limit the matters for which safety standards may be specified.

**268. Safety standards for providers of passenger transport services**

- (1) The regulations may specify safety standards for providers of passenger transport services.

- (2) Safety standards may be specified in relation to any of the following —
- (a) drivers, including the following —
    - (i) driving authorisation and licensing requirements;
    - (ii) competence and qualifications;
    - (iii) driving records and criminal records;
    - (iv) identification;
    - (v) fitness and medical requirements;
    - (vi) reporting of changes in health and other matters relating to health;
  - (b) vehicles used or to be used in providing passenger transport services, including the following —
    - (i) safety of vehicles;
    - (ii) vehicle authorisation and licensing requirements;
    - (iii) maintenance and security and other requirements;
  - (c) insurance;
  - (d) the payment of fares, including the form of payment;
  - (e) reporting of safety incidents and accidents;
  - (f) records relating to vehicles, drivers and bookings;
  - (g) provision of information to passengers;
  - (h) safety management systems.
- (3) Subsection (2) does not limit the matters for which safety standards may be specified.

**269. Safety standards for drivers of vehicles used to transport passengers for hire or reward**

- (1) The regulations may specify safety standards for drivers of vehicles used for the purpose of transporting passengers for hire or reward.



- (2) Safety standards may be specified in relation to any of the following —
- (a) drivers, including the following —
    - (i) driving authorisation and licensing requirements;
    - (ii) competence and qualifications;
    - (iii) driving records and criminal records;
    - (iv) identification;
    - (v) fitness and medical requirements;
    - (vi) reporting of changes in health and other matters relating to health;
  - (b) reporting of safety incidents and accidents;
  - (c) compliance with safety requirements established by providers of on-demand booking services, providers of passenger transport services and providers of passenger transport vehicles;
  - (d) provision of information to providers of on-demand booking services, providers of passenger transport services and providers of passenger transport vehicles.
- (3) Subsection (2) does not limit the matters for which safety standards may be provided.

**270. Safety standards for providers of passenger transport vehicles**

- (1) The regulations may specify safety standards for providers of passenger transport vehicles.
- (2) Safety standards may be specified in relation to any of the following —
- (a) vehicles used or to be used in providing passenger transport services, including the following —
    - (i) safety of vehicles;
    - (ii) vehicle authorisation and licensing requirements;

- (iii) maintenance and security and other requirements;
  - (b) drivers, including the following —
    - (i) driving authorisation and licensing requirements;
    - (ii) competence and qualifications;
    - (iii) driving records and criminal records;
    - (iv) identification;
    - (v) fitness and medical requirements;
    - (vi) reporting of changes in health and other matters relating to health;
  - (c) reporting of changes of ownership or other arrangements in relation to vehicles or of other matters;
  - (d) records relating to vehicles;
  - (e) reporting of safety incidents and accidents;
  - (f) insurance;
  - (g) compliance with safety requirements established by providers of on-demand booking services and providers of passenger transport services;
  - (h) provision of information to providers of on-demand booking services, providers of passenger transport services and passenger transport drivers.
- (3) Subsection (2) does not limit the matters for which safety standards may be specified.

**271. Safety standard offences**

- (1) The regulations may make it an offence for any of the following to contravene a safety standard specified by the regulations —
- (a) the provider of an on-demand booking service;
  - (b) the provider of a passenger transport service;
  - (c) the provider of a passenger transport vehicle;

- (d) a driver of a vehicle operated for the purpose of transporting passengers for hire or reward.
- (2) The regulations may make it an offence for any of the following to fail to ensure that a safety standard specified in the regulations (whether or not it is specified for that person) is complied with —
  - (a) the provider of an on-demand booking service;
  - (b) the provider of a passenger transport service;
  - (c) the provider of a passenger transport vehicle;
  - (d) a driver of a vehicle operated for the purpose of transporting passengers for hire or reward.
- (3) The same safety standard may be specified for more than 1 class of person.
- (4) The regulations may provide a defence of a kind set out in section 24 to an offence referred to in this section.

### **Division 3 — Passenger transport authorisations**

#### **272. Passenger transport authorisations**

- (1) In this section —  
*document* includes —
  - (a) a criminal record check; and
  - (b) a traffic record check; and
  - (c) in the case of a passenger transport driver, an approved medical report.
- (2) The regulations may make provision for the following in relation to passenger transport authorisations —
  - (a) the requirements to be met by applicants for authorisations, including the following —
    - (i) the information to be provided in and with an application;

- (ii) requiring an applicant to provide any document or information that is relevant to whether the applicant is a fit and proper person;
  - (iii) in the case of an application for an on-demand booking service authorisation, the requirements for responsible officers;
  - (iv) requiring an applicant for an on-demand booking service authorisation to provide any document or information that is relevant to whether a responsible officer of the applicant is a fit and proper person;
  - (v) requiring an applicant for a passenger transport driver authorisation to provide any approved medical reports to the CEO;
  - (vi) in the case of an application for a passenger transport vehicle authorisation, requirements for licensing, insurance and roadworthiness of vehicles;
- (b) in the case of an application for a passenger transport vehicle authorisation, enabling applications to be made for authorisations for more than one vehicle;
- (c) conferring power on the CEO to conduct any check (including a criminal record check or a traffic record check) into the character and background of a person to determine if —
- (i) the person is a fit and proper person to hold or to continue to hold an authorisation; or
  - (ii) in the case of a person nominated as a responsible officer by an applicant for, or the holder of, an on-demand booking service authorisation, the person is a fit and proper person to be a responsible officer; or
  - (iii) in the case of an applicant for, or the holder of, an on-demand booking service authorisation, a

close associate of the person has previously held an on-demand booking service authorisation or an equivalent authorisation in another State or a Territory that has been cancelled or has been charged with or convicted of a disqualification offence;

- (d) matters that may be considered in determining whether a person is a fit and proper person to hold an authorisation or to be a responsible officer;
- (e) grant of authorisations, including categories of authorisations;
- (f) conditions of authorisations;
- (g) duration of authorisations;
- (h) renewal of authorisations including —
  - (i) requirements to be met by applicants for renewal; and
  - (ii) applications for renewal; and
  - (iii) the information to be provided in and with an application; and
  - (iv) requiring an applicant to provide any document or information that is relevant to whether the applicant is a fit and proper person to hold an authorisation; and
  - (v) grants of renewal;
- (i) variation of authorisations or conditions of authorisations, including requiring an applicant for a variation to provide any document or information relevant to whether the variation is appropriate in the circumstances;
- (j) changes to any information provided in connection with an application for authorisation;
- (k) replacement or addition of responsible officers, including notification to the CEO of persons ceasing to

be responsible officers and applications and criteria for acceptance of replacement or additional responsible officers;

- (l) requiring the holder of a passenger transport authorisation to provide from time to time any document or information that is relevant to whether the holder or, in the case of a provider of an on-demand booking service, a responsible officer, is a fit and proper person or whether the conditions of an authorisation are appropriate;
- (m) the issue or replacement of authorisation documents or any additional documents identifying the holders of authorisations or the specification of criteria for identification documents to be held or displayed in vehicles;
- (n) the surrender of authorisations;
- (o) requiring a person to surrender any document issued to the person in relation to an authorisation;
- (p) requiring the information to be provided in or in relation to an application or authorisation to be verified by statutory declaration.

**273. Disqualification offences**

- (1) The regulations may prescribe disqualification offences for providers of on-demand booking services, responsible officers and close associates of providers of on-demand booking services and passenger transport drivers.
- (2) The regulations may prescribe —
  - (a) different disqualification offences for providers of on-demand booking services, responsible officers and close associates of providers of on-demand booking services and passenger transport drivers; and

- (b) different disqualification offences for different categories of on-demand booking services and passenger transport drivers; and
- (c) circumstances in which an offence is or is not a disqualification offence.

#### **Division 4 — Operation of on-demand booking services**

##### **274. On-demand booking services**

The regulations may make provision in relation to on-demand booking services, including the following —

- (a) customer complaints handling processes, and the requirements of those processes;
- (b) the provision of information to the CEO by the provider of the service on matters specified in the regulations including —
  - (i) reporting to the CEO of safety incidents involving on-demand vehicles; and
  - (ii) prescribing classes of conduct of on-demand drivers to be reported to the CEO, the reporting process and the information to be provided; and
  - (iii) reporting to the CEO of drivers and on-demand vehicles withdrawn from use or engagement by the service; and
  - (iv) the required times for the provision of information;
- (c) the collection and keeping by the provider of the service of information (including camera footage and audio material) specified in the regulations and requiring the information to be made available to the CEO or an authorised officer;
- (d) insurance requirements for providers of on-demand booking services;

- (e) advertising by providers of on-demand booking services;
- (f) association arrangements between providers of on-demand booking services, including specifying the authorised on-demand booking service that is the principal on-demand booking service for an associated booking service;
- (g) regulating the circumstances in which the provider of an on-demand booking service must or must not facilitate the transport of animals, including assistance animals, in on-demand vehicles for which an on-demand booking service is provided;
- (h) regulating the manner in which information is to be provided.

### **Division 5 — Operation of passenger transport services**

#### **275. Passenger transport services**

The regulations may make provision in relation to passenger transport services, including the following —

- (a) customer complaints handling processes, and the requirements of those processes;
- (b) the provision of information to the CEO by the provider of the service on matters specified in the regulations including —
  - (i) reporting to the CEO of safety incidents involving passenger transport vehicles; and
  - (ii) prescribing classes of conduct of drivers to be reported to the CEO, the reporting process and the information to be provided; and
  - (iii) reporting to the CEO of drivers and vehicles withdrawn from use or engagement by the service; and



- (iv) the required times for the provision of information;
- (c) the collection and keeping by the provider of the service of information (including camera footage and audio material) specified in the regulations and requiring the information to be made available to the CEO or an authorised officer;
- (d) insurance requirements for providers of passenger transport services;
- (e) advertising by providers of passenger transport services;
- (f) regulating the circumstances in which a provider of a passenger transport service must or must not facilitate the transport of animals, including assistance animals, in vehicles in which a passenger transport service is provided;
- (g) regulating the manner in which information is to be provided.

### **Division 6 — Passenger transport drivers**

#### **276. Passenger transport drivers**

The regulations may make provision in relation to passenger transport drivers, including the following —

- (a) requirements for the display of identification of passenger transport drivers and authorisation information;
- (b) requirements for a passenger transport driver to produce the driver's passenger transport driver authorisation or driver's licence to an authorised officer on request;
- (c) requirements for a passenger transport driver to report incidents involving passenger transport vehicles;

- (d) prohibiting or regulating methods of plying for hire;
- (e) prohibiting or regulating ways in which a trip or fare may be procured;
- (f) regulating the conduct and behaviour of passenger transport drivers in relation to the driving of passenger transport vehicles, including —
  - (i) circumstances in which a driver may, or must not, refuse to accept a passenger or terminate the provision of a passenger transport service; and
  - (ii) the conduct and behaviour of a driver towards passengers; and
  - (iii) the route that a driver must drive to reach any destination;
- (g) regulating the circumstances in which a driver must or must not transport animals, including assistance animals, in passenger transport vehicles;
- (h) regulating the transport of goods, including luggage, in passenger transport vehicles.

**277. Safety, security and order**

The regulations may make provision in relation to the safety, security and good order of passengers and the safety and security of passenger transport drivers, including the following —

- (a) prohibiting conduct in or on passenger transport vehicles or on premises used for a passenger transport service;
- (b) authorising passenger transport drivers and authorised officers to eject passengers who do not comply with the regulations.

## **Division 7 — Passenger transport vehicles**

### **278. Passenger transport vehicles**

- (1) The regulations may make provision for or in relation to passenger transport vehicles including the following —
  - (a) prohibiting or restricting the use of vehicles as passenger transport vehicles if they do not meet the required standards;
  - (b) requirements for roadworthiness inspections of vehicles;
  - (c) requirements for maintenance of vehicles;
  - (d) requirements relating to the identification signage and other signs and notices to be used or displayed in or on vehicles;
  - (e) number plate requirements, including —
    - (i) requiring a vehicle to be fitted with number plates issued under the *Road Traffic (Vehicles) Act 2012*; and
    - (ii) providing for the status or return of taxi plates issued under the *Taxi Act 1994* or number plates issued under the *Transport Co-ordination Act 1966*; and
    - (iii) empowering authorised officers to seize and take possession of taxi plates or number plates issued under the *Road Traffic (Vehicles) Act 2012*, the *Taxi Act 1994* or the *Transport Co-ordination Act 1966*; and
    - (iv) providing for an offence in relation to a failure to return number plates in accordance with the regulations;
  - (f) requirements to be complied with in relation to vehicles, including —
    - (i) the provision of fare schedules to passengers; and

- (ii) the standards for installation, maintenance and operation of, and access to, camera surveillance equipment and the collection, keeping, sharing and use of the camera footage and audio material created; and
  - (iii) the use of meters and the display of metered fares; and
  - (iv) the livery to be displayed on and inside the vehicles; and
  - (v) the equipment to be used; and
  - (vi) accessibility;
  - (g) specifications and requirements for wheelchair accessible vehicles, including —
    - (i) structural requirements; and
    - (ii) accessibility requirements; and
    - (iii) vehicle examination requirements; and
    - (iv) signage requirements; and
    - (v) equipment requirements; and
    - (vi) number plate requirements; and
    - (vii) conditions on use.
- (2) For subsection (1)(g) —

***wheelchair accessible vehicle*** means an on-demand vehicle that is used or intended to be used for the transport of persons who have a disability and any wheelchairs or other aids required by those persons.

### **Division 8 — Fares and subsidies**

#### **279. Fares**

The regulations may regulate fares and charges (including payment surcharges) for or in connection with the use of passenger transport vehicles or on-demand booking services or

for the provision of passenger transport services including the following —

- (a) pre-payment, collection, provision of estimates, publication and display of fares, the requirements for receipts and the information to be included in receipts;
- (b) requirements for fare schedules;
- (c) processes for calculating fares for the provision of on-demand passenger transport services, including the transparency and availability of those processes;
- (d) regulating surge pricing and queue jumping for the use of on-demand vehicles at specified times;
- (e) regulating charges on transactions involving payment of a fare or part of a fare by way of a subsidy.

**280. Subsidies**

The regulations may —

- (a) provide for the payment of grants and subsidies for the use of passenger transport vehicles in specified circumstances including —
  - (i) the persons (including members of the public) to or for whom subsidies are payable; and
  - (ii) when subsidies must be accepted as payment or part payment of fares; and
  - (iii) what form subsidies may be in; and
  - (iv) prohibiting the improper or fraudulent use of subsidies; and
  - (v) imposing penalties for the improper or fraudulent use of subsidies; and
  - (vi) the recovery of subsidies by the CEO in a court of competent jurisdiction as a debt due to the Crown;

and

- (b) impose duties on the provider of an on-demand booking service or regular passenger transport service or a passenger transport driver to —
  - (i) facilitate the payment or part payment of fares by the provision of a subsidy or by a person who is eligible for a subsidy for the fare; and
  - (ii) keep the required records in relation to subsidies; and
  - (iii) report to the CEO on specified matters relating to subsidies; and
  - (iv) take the required steps to prevent the improper or fraudulent use of subsidies.

**Division 9 — On-demand passenger transport levy**

**281. On-demand passenger transport levy**

The regulations may make provision in relation to the on-demand passenger transport levy, including the following —

- (a) the provision of information by providers of on-demand booking services, providers of on-demand passenger transport services, providers of on-demand vehicles and drivers of on-demand vehicles for the purpose of determining the levy payable by an on-demand booking service;
- (b) assessments and reassessments of liability for the levy;
- (c) the manner in which amounts are allocated for the levy in fares that relate to leviable passenger service transactions and how those amounts are dealt with;
- (d) rebates of levy;
- (e) the manner of lodging a return under section 250 or making a payment of the levy including the lodging of a return or the payment of the levy by electronic means.

## **Part 12 — Miscellaneous**

### **Division 1 — Giving of documents**

#### **282. Giving of documents generally**

- (1) A document required or authorised under this Act to be given to a person may be given to the person by —
- (a) giving it to the person personally; or
  - (b) sending it by prepaid post (including document exchange) addressed to the person —
    - (i) to the address provided by the person for the giving or service of documents; or
    - (ii) if no address is specified by the person to the CEO, to the last known address of the person;
- or
- (c) leaving it at the person's usual or last known place of residence or business; or
  - (d) emailing it to an email address or faxing it to a fax number —
    - (i) provided by the person for the giving or service of documents; or
    - (ii) if no email address or fax number is provided as referred to in subparagraph (i), to the email address or fax number appearing on recent correspondence addressed by or on behalf of the person to the CEO, or otherwise notified to the CEO or published by the person;
- or
- (e) communicating it in some other way agreed with the person; or
  - (f) in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed

in each case to the corporation or association, at its principal place of business or principal office in the State.

- (2) A document required to be given by the CEO to a partnership is taken to have been given to all members of the partnership if it is given to any member of the partnership in accordance with subsection (1).
- (3) A document required to be given by the CEO to the provider of an on-demand booking service is taken to have been given to the provider if it is given to a responsible officer of the provider of the booking service in accordance with subsection (1).
- (4) The use of a particular method for giving a document to a particular person does not prevent the giving of other documents to the same person in a different way.
- (5) This section does not apply to a document to which the *Taxation Administration Act 2003* section 117 applies.

**283. Time when document given**

- (1) In the absence of proof to the contrary, a document that is emailed or faxed to a person in accordance with section 282(1)(d) or delivered to or left for a person in accordance with section 282(1)(f) is taken to be given on the next business day after the document was emailed or faxed or delivered or left.
- (2) In the absence of proof to the contrary, a document that is sent by prepaid post —
  - (a) to an address within Australia, is taken to be given at the time the document would have been delivered in the ordinary course of the post; or
  - (b) to an address outside Australia, is taken to be given on the day that is 11 business days after the document was posted.



## Division 2 — General

### 284. Delegation

- (1) The CEO may delegate any power or duty of the CEO under another provision of this Act to —
  - (a) a person employed in, or engaged for the purposes of, the Department; or
  - (b) a person in a class of person approved by the Minister.
- (2) The delegation must be in writing signed by the CEO.
- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the CEO to perform a function through an officer or agent.

### 285. CEO may enter into agreements for performance of functions

- (1) The CEO may enter into an agreement providing for the CEO's functions under this Act that are described in the agreement to be performed on behalf of the CEO.
- (2) The CEO's functions include any functions delegated to the CEO under the *Taxation Administration Act 2003*.
- (3) The agreement may be with the Commissioner of Police, a local government, or any other person or body, whether or not the person or body has itself functions of a public nature.
- (4) A function described in the agreement may be performed —
  - (a) in accordance with the agreement; and
  - (b) on and subject to the terms of the agreement.

- (5) If the performance of a function is dependent on the opinion, belief or state of mind of the CEO it may be performed under the agreement on the opinion, belief or state of mind of the person or body with whom the agreement is made or another person provided for in the agreement.
- (6) For the purposes of this Act or any other written law, an act or thing done by, to, by reference to, or in relation to a person or body in connection with the performance by that person or body under the agreement of a function of the CEO is as effectual as if it had been done by, to, by reference to, or in relation to, the CEO.

**286. Protection from personal liability**

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The Minister and the State are also relieved of any liability that either of them might otherwise have had for another person having done anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.
- (5) To avoid doubt, subsection (1) applies to a function performed pursuant to an agreement referred to in section 285.

**287. Protection of people testing or examining or giving certain information**

- (1) The protection given by this section is in addition to any protection given by section 286.

- (2) Proceedings for an offence are not to be brought against a person for giving or reporting to the CEO, in good faith, an opinion formed as a result of having administered a test for the purposes of this Act.
- (3) An action in tort does not lie against a person, and proceedings for an offence are not to be brought against a person, for giving or reporting to the CEO, in good faith, information that discloses or suggests that —
  - (a) another person may not be a fit and proper person to hold a passenger transport authorisation; or
  - (b) it may be dangerous to —
    - (i) grant a passenger transport authorisation to another person; or
    - (ii) allow another person to hold a passenger transport authorisation; or
    - (iii) vary, or not to vary, the conditions of a passenger transport authorisation.

**288. False or misleading information**

A person commits an offence if the person provides information that the person knows to be false or misleading in a material particular to the CEO under this Act or to any other person performing a function under this Act.

Penalty: a fine of \$5 000.

**289. Compensation not payable**

- (1) Compensation is not payable by or on behalf of the State because of —
  - (a) the variation, suspension or cancellation of an authorisation under this Act; or
  - (b) any statement or conduct relating to the variation, suspension or cancellation of an authorisation under this Act; or

- (c) the removal by this Act of any right of a person under the *Taxi Act 1994*, the *Transport Co-ordination Act 1966* or the *Road Traffic (Authorisation to Drive) Act 2008*.
- (2) In subsection (1) —
- authorisation** means a passenger transport authorisation;
- compensation** includes damages or any other form of monetary consideration;
- conduct** includes any act or omission;
- statement** includes a representation of any kind.

**290. Exemptions**

- (1) The Minister may by order published in the *Gazette* grant exemptions from the provisions of Parts 4 and 6.
- (2) An order made under subsection (1) may be amended or revoked by the Minister by order published in the *Gazette*.
- (3) The *Interpretation Act 1984* section 43(7), (8) and (9) applies to an order made under this section as though the order were subsidiary legislation.

*[Div. 3 (s. 291) has not come into operation.]*

## **Part 13 — Transitional provisions**

### **292. Terms used**

In this Part —

***‘F’ or ‘T’ endorsed driver’s licence*** means a driver’s licence that is endorsed with an extension F or T in accordance with regulations made under the *Road Traffic (Authorisation to Drive) Act 2008*;

***on-demand rank or hail vehicle authorisation*** means a passenger transport vehicle authorisation that authorises the operation of the vehicle for use in providing an on-demand rank or hail passenger transport service.

### **293. Disclosure of information about drivers and vehicles**

(1) In this section —

***disclose*** includes to provide, to release and to give access to.

(2) The CEO may disclose the following information about an ‘F’ or ‘T’ endorsed driver’s licence to providers of on-demand booking services, passenger transport services and passenger transport vehicles in accordance with the regulations —

- (a) whether the ‘F’ or ‘T’ endorsed driver’s licence is in force under the *Road Traffic (Authorisation to Drive) Act 2008*; and
- (b) whether the ‘F’ or ‘T’ endorsement is in force under the *Road Traffic (Authorisation to Drive) Act 2008*.

(3) The CEO may disclose information about a passenger transport vehicle on the Department’s website or to any member of the public or any other person including —

- (a) the number plate of the vehicle;
- (b) whether or not a vehicle licence is in force in relation to the vehicle under the *Road Traffic (Vehicles) Act 2012*;

- (c) whether or not an omnibus licence is in force in relation to the vehicle under the *Transport Co-ordination Act 1966*;
- (d) whether or not a country taxi-car licence is in force in relation to the vehicle under the *Transport Co-ordination Act 1966* and the district in which the licence permits the operation of the vehicle;
- (e) whether or not the vehicle is authorised to operate as a taxi under the *Taxi Act 1994* and whether that operation is subject to conditions restricting the operation of the taxi to specified times or areas.

**294. 'F' or 'T' endorsed driver's licences**

- (1) In this section —  
*commencement day* means the day on which Part 5 comes into operation.
- (2) A person who holds an 'F' or 'T' endorsed driver's licence under the *Road Traffic (Authorisation to Drive) Act 2008* may on and from commencement day drive a vehicle for the purpose of transporting passengers for hire or reward without a passenger transport driver authorisation until the earlier of the following to occur —
  - (a) the grant of a passenger transport driver authorisation to the person;
  - (b) the end of the prescribed transition period for the licence.
- (3) Subsection (2) does not apply to a driver's licence while the driver's licence or the 'F' or 'T' endorsement of the driver's licence is not in force.
- (4) The *Road Traffic (Authorisation to Drive) Act 2008* as in force immediately before commencement day to the extent that it relates to 'F' and 'T' endorsed driver's licences continues to apply to an 'F' or 'T' endorsed driver's licence until the end of

the prescribed transition period for the licence despite the amendment of that Act by this Act.

**295. Owned taxi plates**

(1) In this section —

**commencement day** means the day on which Part 6 comes into operation;

**owned taxi plates** means taxi plates owned by an eligible owner (buyback) as defined in section 226(1);

**owner**, in relation to a vehicle, has the same meaning as it has in the *Road Traffic (Administration) Act 2008* section 5 as if this Part were a road law referred to in that section;

**relevant vehicle** means a vehicle that immediately before commencement day —

- (a) was operated under owned taxi plates; or
- (b) would have been operated under owned taxi plates if a grant of a buyback payment had not been made under Part 9 Division 1 before commencement day;

**taxi plates** has the same meaning as it has in Part 9 Division 1.

- (2) A person who immediately before commencement day is the owner of a relevant vehicle, or has the written consent of the owner of a relevant vehicle to operate the vehicle, is taken on and from commencement day until the prescribed day to be the holder of an on-demand rank or hail vehicle authorisation for the vehicle.
- (3) A person who is the eligible owner (buyback) of taxi plates immediately before commencement day for which no grant of a buyback payment has been made under Part 9 Division 1 before commencement day and to whom subsection (2) does not apply is taken on and from commencement day until the prescribed day to be the holder of an on-demand rank or hail vehicle authorisation for a nominated vehicle.

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- (4) For the purposes of subsection (3), a ***nominated vehicle*** is a vehicle nominated to the CEO before commencement day by the owner of the taxi plates that complies with the prescribed requirements.
- (5) An on-demand rank or hail vehicle authorisation referred to in this section may be suspended or cancelled under Part 6 Division 4.

**296. Leased taxi plates**

- (1) In this section —  
***commencement day*** means the day on which Part 6 comes into operation;  
***lessee*** has the meaning given in the *Taxi Act 1994* section 3(1);  
***relevant date*** means the first of the following to occur —
  - (a) the prescribed date;
  - (b) the first anniversary after commencement day of the last date for payment of the annual fee for taxi plates under the *Taxi Act 1994* that occurred before commencement day.
- (2) A person who is the lessee of taxi plates for a taxi under the *Taxi Act 1994* immediately before commencement day is taken on and from commencement day until the relevant date to be the holder of an on-demand rank or hail vehicle authorisation for a nominated vehicle.
- (3) For the purposes of subsection (2), a ***nominated vehicle*** is —
  - (a) the taxi referred to in subsection (2); or
  - (b) a vehicle nominated to the CEO by the lessee of the taxi plates that complies with the requirements of the regulations.
- (4) An on-demand rank or hail vehicle authorisation referred to in subsection (2) may be suspended or cancelled under Part 6 Division 4.



**297. Licensed taxi-cars**

- (1) In this section —  
*commencement day* means the day on which Part 6 comes into operation.
- (2) Subject to subsection (3), a person who is the holder of a taxi-car licence under the *Transport Co-ordination Act 1966* Part IIIB immediately before commencement day is taken on and from commencement day to be the holder of an on-demand rank or hail vehicle authorisation for the vehicle for the remainder of the term for which the licence was issued.
- (3) If a taxi-car licence under the *Transport Co-ordination Act 1966* Part IIIB was suspended immediately before commencement day, the holder of the taxi-car licence is not to be taken to be the holder of an on-demand rank or hail vehicle authorisation for the vehicle —
- (a) during the remaining period for which the licence was suspended; or
  - (b) if the remainder of the term for which the licence was issued expires during the period referred to in paragraph (a).
- (4) An on-demand rank or hail vehicle authorisation referred to in subsection (2) may be suspended or cancelled under Part 6 Division 4.

**298. Licensed omnibuses**

- (1) In this section —  
*commencement day* means the day on which Part 6 comes into operation.
- (2) A person who is the holder of a licence under the *Transport Co-ordination Act 1966* Part III Division 2 for an omnibus immediately before commencement day that prohibits the use of the vehicle to provide a regular passenger transport service is

taken on and from commencement day to be the holder of a passenger transport vehicle authorisation that authorises the operation of a vehicle for use in providing an on-demand charter passenger transport service or a tourism passenger transport service for the remainder of the term for which the licence was issued.

- (3) A person who is the holder of a licence under the *Transport Co-ordination Act 1966* Part III Division 2 for an omnibus immediately before commencement day that does not prohibit the use of the vehicle to provide a regular passenger transport service is taken on and from commencement day to be the holder of a passenger transport vehicle authorisation that authorises the operation of a vehicle for use in providing a regular passenger transport service, an on-demand charter passenger vehicle service or a tourism passenger transport service for the remainder of the term for which the licence was issued.
- (4) Despite subsection (2) or (3), if a licence for an omnibus under the *Transport Co-ordination Act 1966* Part III Division 2 was suspended immediately before commencement day, the holder of the licence is not to be taken to be the holder of a passenger transport vehicle authorisation for the vehicle —
  - (a) during the remaining period for which the licence was suspended; or
  - (b) if the remainder of the term for which the licence was issued expires during the period referred to in paragraph (a).
- (5) An authorisation referred to in subsection (2) or (3) may be suspended or cancelled under Part 6 Division 4.

**299. Taxi Industry Development Account abolished**

- (1) In this section —

***commencement day*** means the day on which section 303 comes into operation.

- (2) On commencement day —
- (a) the Taxi Industry Development Account established under the *Taxi Act 1994* is abolished; and
  - (b) all money standing to the credit of that Account is to be credited to the Consolidated Account.

**300. Bond provisions to continue to apply**

- (1) In this section —  
*commencement day* means the day on which section 303 comes into operation.
- (2) Despite the repeal of the *Taxi Act 1994*, section 36 of that Act and the regulations applying for the purposes of that section continue to apply on and after commencement day in relation to any bond paid to an operator under that section before commencement day until the bond, or the relevant amount of bond, and interest are paid to the driver in accordance with section 36(8) of that Act.

**301. Transitional regulations**

The regulations may contain provisions that are necessary or convenient for dealing with matters concerning the transition from the provisions of any written law applying before the coming into operation of specified provisions of this Act, including regulations made under this Act, applying after the commencement of those provisions.

## **Part 14 — Repeals and consequential amendments**

### **Division 1 — Repeals**

**302. Taxi Act 1994 Part 3 Division 2 deleted**

The *Taxi Act 1994* Part 3 Division 2 is deleted.

**303. Taxi Act 1994 repealed**

The *Taxi Act 1994* is repealed.

**304. Taxi Drivers Licensing Act 2014 repealed**

The *Taxi Drivers Licensing Act 2014* is repealed.

### **Division 2 — Consequential amendments**

#### **Subdivision 1 — *Constitution Acts Amendment Act 1899* amended**

**305. Act amended**

This Subdivision amends the *Constitution Acts Amendment Act 1899*.

**306. Schedule V Part 3 amended**

In Schedule V Part 3 delete the item relating to the Taxi Industry Board.

#### **Subdivision 2 — *The Criminal Code* amended**

**307. Act amended**

This Subdivision amends *The Criminal Code*.

**308. Section 297 amended**

Delete section 297(4)(c)(iii) and insert:

- (iii) a passenger transport vehicle as defined in the *Transport (Road Passenger Services) Act 2018* section 4(1);

**309. Section 318 amended**

Delete section 318(1)(g)(iii) and insert:

- (iii) a passenger transport vehicle as defined in the *Transport (Road Passenger Services) Act 2018* section 4(1);

**Subdivision 3 — *Road Traffic Act 1974* amended**

**310. Act amended**

This Subdivision amends the *Road Traffic Act 1974*.

**311. Section 64A amended**

In section 64A(5):

- (a) in paragraph (a) delete “carried for hire or reward; or” and insert:

transported for hire or reward as defined in the *Transport (Road Passenger Services) Act 2018* section 11 (except subsection (2)); or

- (b) delete paragraph (b);

(c) delete paragraph (c) and insert:

(c) if, at the relevant time, the vehicle is transporting passengers for hire or reward as defined in the *Transport (Road Passenger Services) Act 2018* section 11 (except subsection (2)); or

**312. Section 79D amended**

(1) In section 79D(1) delete the definitions of:

*taxi*

*taxi operator*

(2) In section 79D(1) insert in alphabetical order:

*passenger transport vehicle* means a passenger transport vehicle for which a passenger transport vehicle authorisation has been issued under the *Transport (Road Passenger Services) Act 2018* whether or not, at the relevant time, the vehicle is standing or plying for hire or transporting passengers for reward;

*provider of a passenger transport vehicle* has the meaning given in the *Transport (Road Passenger Services) Act 2018* section 4(1);

(3) Delete section 79D(2)(h) and (i) and insert:

(h) a senior police officer is satisfied that, at the time the offence for which the vehicle was impounded was committed —

(i) the vehicle was a passenger transport vehicle; and

- (ii) the person who allegedly committed the offence (the *alleged offender*) was driving the passenger transport vehicle under an agreement between the alleged offender and the provider of the passenger transport vehicle, or an agent of the provider, under which the alleged offender pays the provider or agent in order to be allowed to drive the passenger transport vehicle for reward; and
  - (iii) the provider of the passenger transport vehicle or agent who entered into the agreement with the alleged offender had complied with subsection (5); and
  - (iv) the alleged offender was not a responsible person for the vehicle;
- or
- (i) a senior police officer is satisfied that, at the time the offence for which the vehicle was impounded was committed —
    - (i) the vehicle was a passenger transport vehicle; and
    - (ii) the person who allegedly committed the offence (the *alleged offender*) was an employee or contractor of the provider of the passenger transport vehicle; and
    - (iii) the alleged offender was driving the vehicle with the consent of the provider of the vehicle; and
    - (iv) the person who consented to the alleged offender driving the vehicle had complied with subsection (5A); and

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(v) the alleged offender was not a responsible person for the vehicle;

or

(4) In section 79D(4) delete “(2)(g)(iv) and (i)(iv),” and insert:

(2)(g)(iv),

(5) Delete section 79D(5) and insert:

(5) For the purposes of subsection (2)(h)(iii), a provider of a passenger transport vehicle or agent who enters into an agreement with a driver of a passenger transport vehicle must —

- (a) ensure the driver holds a current passenger transport driver authorisation under the *Transport (Road Passenger Services) Act 2018*; and
- (b) ensure the driver has been instructed to obey the law when driving the vehicle.

(5A) For the purposes of subsection (2)(i)(iv), a provider of a passenger transport vehicle or agent who consents to an employee or contractor driving the vehicle must —

- (a) ensure the driver holds a current passenger transport driver authorisation under the *Transport (Road Passenger Services) Act 2018*; and
- (b) ensure the driver has been instructed to obey the law when driving the vehicle.



**Subdivision 4 — *Road Traffic (Administration) Act 2008* amended**

**313. Act amended**

This Subdivision amends the *Road Traffic (Administration) Act 2008*.

**314. Section 12 amended**

In section 12(5) delete “road law” and insert:

road law, the *Transport (Road Passenger Services) Act 2018*  
Part 7

**315. Section 14 amended**

In section 14(3) delete the Penalty and insert:

Penalty for this subsection: imprisonment for  
12 months or a fine of 240 PU.

**316. Section 15 amended**

In section 15(3) delete the Penalty and insert:

Penalty for this subsection: imprisonment for  
12 months or a fine of 240 PU.

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**317. Section 110 amended**

After section 110(1) insert:

- (1A) In subsection (1) —  
*road law* includes the *Transport (Road Passenger Services) Act 2018*.

**318. Section 143A amended**

In section 143A(1) delete the Penalty and insert:

Penalty for this subsection: imprisonment for  
12 months or a fine of 240 PU.

**Subdivision 5 — *Road Traffic (Authorisation to Drive) Act 2008*  
amended**

**319. Act amended**

This Subdivision amends the *Road Traffic (Authorisation to Drive) Act 2008*.

**320. Section 9 amended**

After section 9(7) insert:

- (8) Subsection (7) does not apply to a person who reproduces a photograph provided under this section for the purposes of the *Transport (Road Passenger Services) Act 2018* Part 7.

**321. Section 11B amended**

In section 11B insert in alphabetical order:

***CEO (road passenger services)*** means the CEO as defined in the *Transport (Road Passenger Services) Act 2018* section 4(1);

**322. Section 11E inserted**

At the end of Part 2 Division 3A insert:

**11E. Disclosure to CEO (road passenger services)**

The CEO may disclose photographs to the CEO (road passenger services) for the purposes of the performance of the functions of the CEO (road passenger services) under the *Transport (Road Passenger Services) Act 2018*.

**Subdivision 6 — *Road Traffic (Vehicles) Act 2012* amended**

**323. Act amended**

This Subdivision amends the *Road Traffic (Vehicles) Act 2012*.

**324. Section 21 amended**

In section 21(c) delete “1966.” and insert:

*1966* or the *Transport (Road Passenger Services) Act 2018*.

**325. Section 131 amended**

Delete section 131(2) and insert:

- (2) For the purposes of subsection (1) a carriage of passengers is under a motor vehicle pooling arrangement if —
- (a) the motor vehicle is provided by the driver; and
  - (b) the driver would be undertaking the relevant journey in any event; and
  - (c) the carriage is not the result of plying or touting for hire by the driver or another person; and
  - (d) the maximum number of persons in the motor vehicle, including the driver, is 9; and
  - (e) a payment by a passenger is limited to making a contribution to the costs incurred in making the journey and does not involve profit for the driver or any other person.

**Subdivision 7 — *State Administrative Tribunal Act 2004* amended**

**326. Act amended**

This Subdivision amends the *State Administrative Tribunal Act 2004*.

**327. Schedule 1 amended**

- (1) In Schedule 1 delete:
- Taxi Act 1994*
- (2) In Schedule 1 insert in alphabetical order:

*Transport (Road Passenger Services) Act 2018*

**Subdivision 8 — *Taxation Administration Act 2003* amended**

**328. Act amended**

This Subdivision amends the *Taxation Administration Act 2003*.

**329. Section 3 amended**

After section 3(1)(j) insert —

(jaa) the *Transport (Road Passenger Services) Act 2018*  
Part 9 Division 2;

**Subdivision 9 — *Taxi Act 1994* amended**

**330. Act amended**

This Subdivision amends the *Taxi Act 1994*.

**331. Section 3 amended**

(1) In section 3(1) delete the definitions of:

*registration*

*taxi dispatch service*

(2) In section 3(1) insert in alphabetical order:

*taxi dispatch service* means an on-demand booking  
service as defined in the *Transport (Road Passenger  
Services) Act 2018* section 10;

(3) In section 3(3):

(a) in paragraph (a) delete “or an application for  
registration”;

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(b) after paragraph (b) insert:

(ba) a reference to the provider of a taxi dispatch service is a reference to the provider of an on-demand booking service as defined in the *Transport (Road Passenger Services) Act 2018* section 10; and

**332. Section 33 amended**

Delete section 33(c).

**333. Section 37 amended**

In section 37(1):

(a) in paragraph (b) delete “section 24; or” and insert:

section 24,

(b) delete paragraph (c);

(c) in paragraph (e) delete “transferee; or” and insert:

transferee,

(d) delete paragraph (f);

(e) delete “plates or the provider of a taxi dispatch service,” and insert:

plates,

**Subdivision 10 — *Transport Co-ordination Act 1966* amended**

**334. Act amended**

This Subdivision amends the *Transport Co-ordination Act 1966*.

**335. Section 4 amended**

- (1) In section 4(1) delete the definition of *omnibus*.
- (2) Delete section 4(3) and (4).

**336. Section 15D inserted**

After section 15C insert:

**15D. Stopping places**

- (1) In this section —  
*local government* includes the Commissioner of Main Roads, in relation to any road in relation to which the Commissioner may exercise power under the *Main Roads Act 1930*;  
*passenger transport vehicle* means a passenger transport vehicle as defined in the *Transport (Road Passenger Services) Act 2018* section 4(1).
- (2) The Minister may appoint stopping places to be used for passenger transport vehicles operated for hire or reward.
- (3) The Minister may cause to be erected at a stopping place appointed under subsection (2) —
  - (a) any sign indicating and identifying the stopping place; and
  - (b) shelters of any design or construction the Minister thinks fit.

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- (4) Before a sign or shelter is erected under subsection (3), the Minister must cause the Director General to confer with the local government concerned on the matter.
- (5) If agreement cannot be reached on the location, size and type of sign or shelter, the matter is to be determined by —
  - (a) the Minister; and
  - (b) as the case requires, the Minister administering the *Local Government Act 1995* or the Minister administering the *Main Roads Act 1930*.
- (6) A local government must, if so required by the Minister, appoint within its district any stands for passenger transport vehicles that are agreed on between the Minister and the local government.
- (7) If agreement is not reached under subsection (6), the matter must be resolved in the manner provided by subsection (5) for resolving matters in dispute.

**337. Section 17 amended**

(1) After section 17(2) insert:

(2A) The Minister may impose conditions, restrictions and prohibitions on an authorisation granted to a tenderer under the *Transport (Road Passenger Services) Act 2018* Part 4 Division 2 in addition to any other conditions that may be imposed under that Division.

(2) In section 17(3):

(a) after “licence” (first occurrence) insert:

or authorisation



(b) delete “this Act to cancel the licence” and insert:

this Act or the *Transport (Road Passenger Services)*  
*Act 2018* to cancel the licence or authorisation

**338. Section 19 amended**

(1) In section 19(1) after “subject to” insert:

subsection (1A) and

(2) After section 19(1) insert:

(1A) This Part does not apply to a passenger transport vehicle as defined in the *Transport (Road Passenger Services) Act 2018* section 4(1).

**339. Section 20 amended**

In section 20(2) delete “vehicle or omnibus,” and insert:

vehicle,

**340. Section 21 amended**

Delete section 21(1)(a).

**341. Part III Division 2 deleted**

Delete Part III Division 2.

***Transport (Road Passenger Services) Act 2018***

**Part 14** Repeals and consequential amendments

**Division 2** Consequential amendments

**s. 342**

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**342. Part IIIB deleted**

Delete Part IIIB.

**343. Section 55 deleted**

Delete section 55.

**344. Section 57 amended**

Delete section 57(7).

**345. Section 60 amended**

Delete section 60(2)(c), (d), (e) and (ea).

**346. Section 63 amended**

In section 63 delete “this Act.” and insert:

this Act or the *Transport (Road Passenger Services) Act 2018*.



## Notes

This is a compilation of the *Transport (Road Passenger Services) Act 2018* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Transport (Road Passenger Services) Act 2018</i>	26 of 2018	30 Oct 2018	Pt. 1: 30 Oct 2018 (see s. 2(a)) Pt. 2, Pt. 3 (other than s. 27(1) and (2) and 28), Pt. 7 and 8, Pt. 9 Div. 1 (other than s. 230 and 236) and Div. 3, Pt. 10 and 11, Pt. 12 (other than Div. 3), Pt. 13, Pt 14 Div. 1 (other than s. 303) and Div. 2 (other than Subdiv. 1, 2, 3, 8 and 10 and s. 327(1)): 28 Feb 2019 (see s. 2(b) and <i>Gazette</i> 26 Feb 2019 p. 449-50); s. 27(1) and (2) and 28, Pt. 9 Div. 2 and Pt. 14 Div. 2 Subdiv. 8: 1 Apr 2019 (see s. 2(b) and <i>Gazette</i> 26 Feb 2019 p. 449-50); s. 230 and 236: 1 Jul 2019 (see s. 2(b) and <i>Gazette</i> 28 Jun 2019 p. 2473); Pt. 4 (other than s. 56 and 57), Pt. 6, s. 303 and 327(1), Pt. 14 Div. 2 Subdiv. 1-3 and 10: 2 Jul 2019 (see s. 2(b) and <i>Gazette</i> 28 Jun 2019 p. 2473); s. 56 and 57: 1 Aug 2019 (see s. 2(b) and <i>Gazette</i> 28 Jun 2019 p. 2473)
<i>Transport (Road Passenger Services) Amendment Act 2018</i>	27 of 2018	30 Oct 2018	s. 1 and 2: 30 Oct 2018 (see s. 2(a)); Act other than s. 1 and 2: 1 Apr 2019 (see s. 2(b) and <i>Gazette</i> 26 Feb 2019 p. 449-50)

## **Transport (Road Passenger Services) Act 2018**

### **Notes** Uncommenced provisions table

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<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<a href="#">Transport (Road Passenger Services) Amendment (COVID-19 Response and Regional Assistance) Act 2020</a>	<a href="#">10 of 2020</a>	<a href="#">3 Apr 2020</a>	<a href="#">s. 1 and 2: 3 Apr 2020 (see s. 2(a)); Act other than s. 1 and 2: 4 Apr 2020 (see s. 2(b))</a>

### **Uncommenced provisions table**

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Transport (Road Passenger Services) Act 2018</i> Pt. 5 and Pt. 12 Div. 3	26 of 2018	30 Oct 2018	To be proclaimed (see s. 2(b))