



Queensland

Transport Operations (Passenger Transport) Regulation 2005

Explanatory Notes for SL 2005 No. 329

made under the

Transport Operations (Passenger Transport) Act 1994

General outline

Authorising law

The proposed Transport Operations (Passenger Transport) Regulation 2005 will be made under the provisions of the Transport Operations (Passenger Transport) Act 1994 and consequential amendments are proposed to regulations made under the State Penalties Enforcement Act 1999 and the Transport Operations (Road Use Management) Act 1995.

Chapter 12, Part 3 of the Transport Operations (Passenger Transport) Act 1994 provides for the making of regulations under the Act and allows these regulations to cover a wide range of matters about –

- the safety of public passenger services;
- the rights and obligations of passengers and drivers of public passenger vehicles;
- the requirements for operator accreditation and driver authorisation;
- the requirements for public passenger vehicles or the equipment for public passenger vehicles;
- the fares charged for the use of public passenger services;
- the funding or operation of public passenger services and issues affecting the services;

- the collection, maintenance, retention or production of records.

Section 155(1) of the Act provides for the Governor-in-Council to make regulations under the Act.

Section 155(2) of the Act allows the maximum penalty prescribed under a regulation to be 80 penalty units.

The State Penalties Enforcement Act 1999, under section 165, provides the authority for the State Penalties Enforcement Regulation 2000 (SPER). The regulation may prescribe an offence to be an infringement notice offence and may also prescribe an infringement notice fine for an infringement notice offence. Consequential amendments to schedule 3 of the SPER for the passenger transport legislation are included in Part 14 of the regulation.

The Transport Operations (Road Use Management Act) 1995, under Part 10, provides the authority for the Transport Operations (Road Use Management – Road Rules) Regulation 1999 (TO(RUM-RR)R) and the Transport Operations (Road Use Management – Vehicle Standards and Safety) Regulation 1999 (TO(RUM-VSS)R). Consequential amendments to the TO(RUM-RR)R and the TO(RUM-VSS)R are required to amend references to the repealed regulation.

Background

Following an extensive review of the public transport industry in Queensland, an ambitious program to reform public transport across the State was undertaken in 1994. The reforms were needed to achieve a better, more efficient and accountable passenger transport system to meet the needs of a rapidly growing State.

The Transport Operations (Passenger Transport) Act 1994 and its subordinate legislation,¹ the Transport Operations (Passenger Transport) Regulation 1994, were enacted in November 1994 to provide a legislative framework for implementing the reforms.

There have been significant changes and growth in the passenger transport industry over the 11 years since 1994, in the type of services and the way services are delivered, and the needs and expectations of the community.

¹ The *Transport Operations (Passenger Transport) Standard 2000* was made on 1 March 2000.

Passenger transport plays an important role in the lives of many of the community. It provides access to important facilities such as employment centres, education, medical centres, hospitals, shopping and recreational centres.

As our society continues to grow, and a larger sector of our community ages, Queensland Transport has a critical role to ensure that passenger transport services continue to meet changing community needs.

To do this, it is vital the passenger transport legislation keeps pace and supports these changing needs.

With the approaching statutory expiry of the Transport Operations (Passenger Transport) Regulation 1994 on 1 September 2005,² Queensland Transport commenced a review of the regulation in 2004 to ensure the legislation remains relevant and the Government's priorities for passenger transport can be achieved.

An exemption from expiry of the current regulation for a further 12 months was provided under the Statutory Instruments Regulation (No. 2) 2005.³ The current regulation will now expire on 31 August 2006.

The proposed Transport Operations (Passenger Transport) Regulation 2005 will replace the present Transport Operations (Passenger Transport) Regulation 1994.

Policy Objectives of the Proposed Regulation

The Transport Operations (Passenger Transport) Act 1994 is intended to achieve the provision of the best possible public passenger transport at reasonable cost to the community and government, keeping government regulation to a minimum.

The objectives of the Act are to -

- (a) enable the effective planning and efficient management of public passenger transport in the State; and
- (b) provide a system of public passenger transport in the State that –
 - (i) is responsive to community needs; and

2 The *Statutory Instruments Act 1992* provides that all subordinate legislation expires on the 1st September after the tenth anniversary of its commencement.

3 The *Statutory Instruments Regulation (No. 2) 2005* was made on 26 August 2005.

- (ii) offers an attractive alternative to private transport in a way that reduces overall environmental, economic and social costs of passenger transport; and
- (iii) addresses the challenges of future growth; and
- (iv) provides a high level of accountability; and
- (v) provides public passenger services at a reasonable cost to the community and government; and
- (c) provides a reasonable level of community access and mobility in support of the Government's social justice objectives; and
- (d) provides an adequate framework for coordinating the different forms of public passenger transport to form a comprehensive, integrated and efficient system.

The proposed regulation reflects an approach consistent with the objectives of the Act based on allowing operators scope to meet emerging identified needs, holding operators and drivers accountable for their performance, and a desire to ensure high levels of safety and the efficient meeting of user needs.

The legislation is performance-based, and places the onus for compliance on industry rather than specifying in detail how industry is intended to act in all situations.

The Transport Operations (Passenger Transport) Standard 2000 (the Standard) sets out the obligations on industry to enhance the level of safety and customer service in the provision of public passenger services.

Matters relating to safety and performance standards for public passenger services which the Government considers mandatory are legislated in the Act and Regulation.

The intent of this legislation is to achieve higher standards of service and safety within the passenger transport industry, leading to improved consumer satisfaction and greater confidence in public passenger services. Underpinning the legislation is a system of offences and penalties for those who fail to meet their responsibilities within this framework.

Achieving the Policy Objectives

The subordinate legislation contributes to the achievement of the overall policy objectives by imposing requirements that operators, service

providers and drivers in the public passenger transport industry must comply with. The requirements will ensure that a minimum standard of performance is met and will contribute to a more attractive and efficient transport system.

The proposed regulation achieves this by:

- detailing the rights and responsibilities of operators and drivers of public passenger services;
- specifying procedures and requirements relating to granting, renewing, amending, suspending, canceling or refusing authorities, including opportunities to appeal decisions;
- detailing the rights and responsibilities of passengers on public passenger services;
- identifying vehicle and customer service standards that must be achieved;
- providing appropriate review and appeal mechanisms for persons affected by decisions made under the legislation; and
- including a schedule of fees payable by operators and drivers of public passenger services.

Options for Achieving the Policy Objectives

The RIS for the proposed regulation sets out in details the options and alternatives for achieving the policy objectives of the proposed regulation.

1 No Regulation

The regulation of the passenger transport industry in Queensland is in the interests of the industry as well as being necessary for the protection of passengers and the general community.

Without regulation of the industry, there would be a high risk of reduced standards, safety and services in the passenger transport industry. It is likely that there would be a decrease in the financial viability of the industry and far reaching negative economic and social implications for the State and government.

2 Proposed Regulation

The initial consultation conducted in preparing the RIS for the proposed regulation revealed that for the most part, the current regulation works effectively and is necessary to maintain and improve the level of services and standards in the public passenger transport industry in Queensland.

At that stage, it was anticipated that the new regulation would not impose any responsibilities. Rather, it would primarily improve the operational effectiveness and efficiency of the current regulation.

However, subsequent to the release of the RIS for consultation, Queensland Transport has advanced a number of key policy initiatives which have now been incorporated into the proposed regulation.

This includes the introduction of taxi security camera systems to be implemented across the State. It is important to note that the development of this key initiative by the government has been subject to government approvals and processes separately to the process undertaken for the proposed regulation. Extensive industry and community consultation was also undertaken throughout each stage of the policy and legislative development cycle for the taxi security camera system.

Queensland Transport is also currently progressing a number of other key initiatives which, without pre-empting the outcomes, are likely to require legislative change in the near future. One of those initiatives is the Taxi and Limousine Development project to implement a range of initiatives to enhance taxi and limousine services in Queensland. Consultation for each of the key initiatives is being conducted separately to the proposed regulation.

Regulatory provisions mandate practices and competency requirements, which together with the Transport Operations (Passenger Transport) Standard 2000, establish clear guidelines on the rights and responsibilities of service providers, operators and drivers in the public passenger transport industry.

The proposed regulation is the most appropriate means of achieving the policy objectives of the Act. The required outcomes can not be satisfactorily achieved by alternative legislative or non-legislative means.

Benefits and Costs of Implementing the Regulation

The cost-benefit analysis undertaken as part of the RIS indicates that the new regulation will provide net benefits to business, government and the wider community.

The proposed regulation imposes some costs on the industry and the community. These costs include regulatory fees payable by the industry, vehicle standard and safety requirements, industry compliance and market entry restrictions.

Apart from the regulatory fees payable by industry, an accurate measure of the financial impact of the regulation on the passenger transport stakeholders is not possible due to the absence of quantifiable data on future benefits and costs.

As a result, only a qualitative assessment of the impact of the proposed regulation has been undertaken and is provided in detail in the RIS. A financial assessment on the impact of the regulatory fees is also detailed in the RIS.

The general community

There is little to no appreciable cost (low -) of the regulation on the community except in the choice of service provider. However, the community obtains significant benefits (high) from the regulation being in place. These include:

- reasonable fares and reliable scheduled passenger services and taxi services;
- a reasonable level of scheduled passenger services and taxi services available during non-peak times (for example, weekends and evenings);
- the provision of 50% subsidised taxi services for people with disabilities; and
- the provision of safe, quality public passenger services.

The passenger transport industry

The regulation does impose some cost (low +) on the passenger transport industry in the form of restrictions and standards. However the industry obtains a medium level of benefit through:

- significant government subsidies for a number of scheduled passenger services and taxi services;
- standardised accountability mechanisms;
- personal history (criminal, traffic and health) screening of public passenger drivers; and
- an enhanced standing in the community and marketplace from government auditing of services to ensure industry compliance to legislated standards.

Queensland Government agencies

There is some cost (low +) to government in administering the regulation. However, there is significant benefit (high -) for government with the regulation directly addressing the seven key government priorities and meeting our State's transport system challenges by supporting economic growth, improving mobility and safety, increasing liveability and community well-being and environmental responsibility.

Qualitative assessment of the proposed fees

The annual fees payable for authorities under the Act remain the same as under the current regulation.

While the proposed fees have no appreciable impact on the community, it is acknowledged that there is some impact on the industry. However, the impact is considered marginal in the cost of operating or driving a public passenger service.

A more detailed assessment of the impact on each public passenger service stakeholder is provided in the RIS.

The administrative costs associated with the introduction of the regulation will be absorbed within existing departmental budget allocations.

National Competition Policy

Queensland Transport established a National Competition Policy Review Committee (Review Committee) to review the Transport Operations (Passenger Transport) Act 1994 and subordinate legislation to examine restrictions on competition for urban bus services, taxis, limousines and air

services. The review was completed in 2000⁴ and concluded that the benefits of the current regulatory regime outweigh the costs to the community as a whole. The review also identified recommendations which would improve industry performance.

The federal National Competition Council did not support the findings of Queensland's Review Committee, indicating that their preferred approach was for the full deregulation of both the taxi and limousines industries.

In August 2003, the State Government fully endorsed the recommendations of the Review Committee which will allow a more flexible and innovative process to build on the already high standard of service provided to the community by the taxi and limousine industries in Queensland.

In May 2004, Queensland Transport released the Taxi and Limousine Development discussion paper⁵ outlining the options for the implementation of initiatives for enhancing taxi and limousine services in Queensland. The discussion paper provided an opportunity for all stakeholders to contribute to and be a part of shaping the future development of the taxi and limousine industries in this State and to build on the high level of services already provided.

The comprehensive feedback and subsequent analysis, detailed in the Taxi and Limousine Development Paper Feedback Analysis,⁶ resulted in a package of proposed actions for reform. The aim of these reforms is to enable Queensland's taxi and limousine industries to stay abreast of future challenges such as an increased demand in peak times.

The package of proposed actions for reform will be submitted for government approval.

Consistency with Authorising Law

The proposed regulation is consistent with the overall objectives of the Transport Operations (Passenger Transport) Act 1994. It contributes to the provision of a system of public passenger transport that achieves an

4 A copy of the review report can be obtained at www.transport.qld.gov.au/public

5 The *Taxi and Limousine Development discussion paper* is available on Queensland Transport's website at www.transport.qld.gov.au/public.

6 The *Taxi and Limousine Development Paper Feedback Analysis* is available on Queensland Transport's website at www.transport.qld.gov.au/public.

appropriate balance between regulating the passenger transport industry to provide certainty and confidence in the transport system, and enabling the effectiveness and efficiency of the industry to be developed.

Consistency with Other Legislation

The proposed regulation is not inconsistent with any other Queensland legislation.

Fundamental Legislation Principles

The proposed regulation does not, in general, infringe upon fundamental legislation principles. However, there are some provisions which potentially raise some concerns about fundamental legislation principles.

Protection of the reputation of public passenger transport and the public interest

Queensland Transport is responsible for ensuring public passenger transport is developed in a way that promotes, within overall transport objectives, the safety of passengers.

The community and industry have a high expectation that government will ensure that drivers and operators in the passenger transport industry are suitable persons to provide public passenger services.

The regulation needs to provide an appropriate balance of allowing government to manage and respond quickly to matters about personal safety and service delivery for public passenger services.

The Government has established categories of disqualifying offences and driver disqualifying offences under the Act to assist in determining the suitability of persons to participate as operators and drivers in the public passenger transport industry.

However, it is not possible to make absolute rules for every conceivable offence that might impact on the safety and security of public transport passengers. Each offence differs slightly, whether that difference is in the circumstances of the offence, any history of similar behaviour and any other relevant matters.

It is critical for the Government to be able to respond to any unforeseen matters or offences which may also rule a person as being unsuitable to

participate in the passenger transport industry and a risk to the personal safety of passengers.

The Act expressly provides the power to make regulations to take certain actions in the public interest for driver authorisation, operator accreditation and service licences.

For example, section 32(3) of the Act enables a regulation to be made to authorise the chief executive to immediately suspend a person's driver authorisation if the person is charged with a driver disqualifying offence or the chief executive otherwise considers it necessary in the public interest. Similar public interest provisions also apply for specified actions for operator accreditation (Act, s20(3)) and service licences (Act, s79(3)).

The proposed regulation provides powers for the chief executive to take certain actions against a person's authorisation, accreditation or service licence, in the public interest, or if the person has behaved in a way that has damaged the reputation of public passenger services or the public passenger transport industry.

The proposed regulatory provisions seek to strike an appropriate balance between an individual's rights and liberties with the need for Queensland Transport to be able to take decisive action where it is considered the person presents a risk to the safety and security of passengers and the public transport industry.

The need for, and application of, the public interest power is evident in examining a recent case in the public transport industry.

- A public transport driver was charged with an offence of wilful exposure as a result of exposing himself to a female passenger.
- The charge of wilful exposure is not categorised as a driver disqualifying offence under the Act, so action against the driver could not be taken on that basis.
- The difficulty with lesser offences, such as "wilful exposure⁷", is that the offence can range from an unintentional act of exposure by urinating out of public view but through circumstances at the time is viewed by a member of the public, to a more aggravated anti-social behaviour for the purposes of sexual gratification.
- In this real-life case, Queensland Transport needed to take decisive action, in the public interest, to remove the driver from the industry

7 "Wilful exposure" is an offence under the *Summary Offences Act 2005*.

immediately and until such time as the charge had been disposed of through the judicial system.

- The action taken against the driver under the public interest power is a reviewable decision under the legislation.

Balanced against the public interest power is the affected person's natural justice right to seek a review of the chief executive's decision, and if necessary, appeal against the reviewed decision to the Magistrates Court. The person may also apply to the court to have the original decision, and if necessary, the reviewed decision stayed. This rigorous system for the review and appeal of decisions is provided under the Transport Planning and Coordination Act 1994, and applies to decisions made under the proposed regulation.

It may be argued that the power to take action against a person in the public interest or if the person's behaviour is considered to be damaging to the reputation of public passenger services, is an example of a right made dependent on administrative power where the power is not sufficiently defined. However, it is Queensland Transport's view that the public interest considerations and safety are paramount and warrant the need for these provisions.

Guidelines issued by the chief executive

The current regulation provides for the issue of guidelines by the chief executive for matters about the type, age and use of vehicles to provide public passenger services for which operator accreditation is required.

The guidelines specify important vehicle and safety criteria about the types, ages, equipment and use for public passenger vehicles. Information in the guidelines is also of a technical nature, including specifying requirements for compliance with Australian Design Rules.

The current guidelines include –

- Guideline for public passenger vehicle type, age and use standards (VSA.11.2/05)
- Guideline for safety padding for bus handrails, seats and partitions (VSA.12.2/05)
- Guideline for heavy bus service life extensions (VSA.10.2/05)
- Guidelines for school bus warning signs and warning lights (VSA.1.2/05)

- Guideline for the structural inspection and repair of buses (VSA.9.2/05)
- Guideline for buses requiring power-train retarders (VSA.2.2/05)

A transitional provision in the proposed regulation enables the existing guidelines on issue by the chief executive to remain in force, and to be amended or repealed, until 1 year after the commencement of the proposed regulation. This will allow the department to review the guidelines to consider the most appropriate legislative instrument for the continuing regulation of these critical vehicle safety requirements.

Penalties for offences under the Regulation

The Act allows the maximum penalty prescribed under the proposed regulation to be 80 penalty units.

The proposed regulation contains a small number of maximum penalties for matters relating to the improper use of image recordings and security safeguards for taxi security camera systems. The maximum penalties reflect the seriousness of the offences and are considered appropriate under the circumstances.

The majority of offences under the proposed regulation, particularly the most common operational offences, are set at a maximum of 20 penalty units. A smaller number of offences are set at a maximum of either 10 penalty units or 40 penalty units.

Apart from the penalties set at the maximum range, all other offences under the proposed regulation are punishable by on-the-spot infringement notices issued under the State Penalties Enforcement Regulation 2000 (SPER).

Fines imposed under SPER for offences against the proposed regulation range between 1- 4 penalty units. Consequential amendments to schedule 3 of the SPER for the passenger transport legislation are included in Part 14 of the proposed regulation.

Disqualifying offence

Under the current and proposed regulations, an offence against the regulation for which the maximum penalty is at least 20 penalty units is a disqualifying offence for the purposes of operator accreditation, taxi service licences and limousine service licences.

The regulation also prescribes that a disqualifying offence is an offence against the Act.

Some concerns have been expressed about the potential breach of the fundamental legislative principles. However, it is necessary to include a transitional and savings provision in the proposed regulation to so that an offence against the Act is also a disqualifying offence until such time as the Act can be amended at the earliest opportunity to overcome this matter. An expiry of 1 year has been set against this provision.

Consultation

There were two separate consultation processes for the development of the 2005 regulation. Consultation about the regulations for the introduction of taxi security camera systems in Queensland was undertaken separately from the regulatory impact statement process.

A Regulatory Impact Statement (RIS) was prepared in accordance with the requirements of the Statutory Instruments Act 1992, for the then proposed regulation.

In developing the RIS, initial consultation was undertaken with internal stakeholders and key industry associations. The consultation revealed that for the most part, the current regulation works effectively and regulation is necessary to maintain and improve the levels of services and standards in the public passenger transport industry in Queensland.

Queensland Transport invited submissions from the community, stakeholders and other interested parties on the RIS and the proposed new regulation on 3 June 2005, with comments closing on 4 July 2005.

Public notices about the availability of the RIS and draft proposed regulation were published in the Government Gazette on 3 June 2005, and in the Courier Mail on 3-4 June 2005. Copies of the consultation documents were available on request to the department.

The consultation documents were also published electronically on Queensland Transport's website and the Department of State Development and Innovation's Queensland Regulations website. A total of 329 "hits" and 110 "hits" respectively were recorded on the websites about the proposed regulation.

However, at the closing of the consultation period, no submissions on the proposed regulation were received from the general public. Submissions

were received from the key passenger transport industry associations and Brisbane City Council.

Queensland Transport consulted directly with the following passenger transport industry associations in the State:

- Limousine Association Queensland Inc
- Queensland Bus Industry Council Inc
- Queensland School Bus Alliance
- Taxi Council of Queensland Inc

Overall the industry associations were generally supportive of the proposed regulation.

Several associations expressed the view that the statutory consultation period should have been extended and their preference would be for the proposed regulation to be delayed so that other ongoing passenger transport initiatives being developed by the department could be encompassed in the new regulation. In response, Queensland Transport advised the importance of continuing to progress the initiatives separately without delaying the new regulation.

Collectively, the associations raised a number of policy issues which require further consideration because of the potentially wide-ranging policy implications and impact on the various market segments of the passenger transport industry. Queensland Transport has informed the industry associations that the department will continue to work with them to progress the policy development of these matters.

Forward-control passenger vehicles

The increasing use of forward-control passenger vehicles to provide a range of services in the passenger transport market has raised some concerns in the industry. Industry associations have requested the department to review the types of vehicles categorised as forward-control vehicles, the services they are authorised to provide, and the vehicle safety and equipment requirements.

Vehicles used to provide taxi services

The Taxi Council of Queensland requested the maximum seating restriction for a light bus used to provide a taxi service be removed to allow

the industry to use light buses with a gross vehicle mass of not more than 5 tonne, without passenger limitations. Because of the potential impacts on the whole of the passenger transport market, further investigation into the market demands and other operational issues must be undertaken.

The equipment required to be fitted to luxury taxis will also be reviewed in response to an industry request.

Driver Authorisation fees

The issue and renewal of driver authorisation attracts an annual fee to offset the cost of administration. At present, this fee applies only to taxi and limousine drivers. All other drivers (for example, drivers of scheduled buses, tour buses, four-wheel-drive tour vehicles and school buses) are not required to pay a fee for the issue or renewal of their driver authorisation.

Industry feedback has recommended that the driver authorisation fee should apply to all passenger transport drivers.

Queensland Transport has commenced a review of the fees and charges for the passenger transport industry to examine the appropriateness of the current fees and the costs associated with the administration of the systems and authorities for the industry.

The review will provide a fair and reasonable framework of fees for all sectors of the passenger transport industry while ensuring entry into the industry remains accessible to operators and drivers. The key industry associations and other stakeholders will be consulted as part of the review.

Notification of demerit points

Industry associations have requested the development of a system for the notification of a driver's traffic infringements and demerit points. Industry's view is that this will enable operators to better monitor and implement appropriate driver training and education programs to enhance driver awareness and safety.

Queensland Transport is currently considering the issues associated with the possible provision of this notification to industry. Further consultation with industry may occur to better define the options available to industry and possible solutions that Queensland Transport may propose to meet this request.

Brisbane City Council's submission on the proposed regulation included a number of comments about matters outside the purview of the regulation provisions. The remaining issues raised by Brisbane City Council have been considered in the development of the regulation. Those issues included advertising on vehicles, the carriage of animals on public passenger vehicles, the dress of drivers and the assistance to be provided to passengers by drivers.

The Department of the Premier and Cabinet, Queensland Treasury, the Department of Justice and Attorney-General and the Department of State Development and Innovation support the proposed regulation.

The consultation for the regulation about taxi security cameras included an exposure draft of the relevant proposed regulation. As well as making it available to the community on the Queensland Transport website, the exposure draft was provided to:

- Government departments – the Department of the Premier and Cabinet, the Department of Justice and Attorney-General, the Department of State Development and Innovation
- Taxi Council of Queensland Inc
- Queensland Taxi Drivers Association
- Yellow Cabs
- Black and White Cabs
- Council of Civil Liberties
- a number of other individuals involved in the taxi industry.

As well as providing the exposure draft to key industry stakeholders, the draft was available on Queensland Transport's website for the full 28 day consultation period.

With the exception of the Council of Civil Liberties, all other stakeholders supported the taxi security camera regulation.

The Council of Civil Liberties supported the process and a number of particular aspects of the regulation, such as the advisory signs and penalties. However they called for a complete privacy policy and that access to images should be restricted to police officers.

Limiting access to the download software to Queensland Police Service has the potential to use police resources unnecessarily. This would be

particularly the case for minor incidents such as fare evasion, disorderly conduct, or offensive behaviour, theft of property, or damage to property.

Further, the regulation contains a number of protections that limits the circumstances when an image may be downloaded, and who can do so.

Notes on provisions

Part 1 - Preliminary

Short Title

Section 1 sets out the short title of the Regulation as the Transport Operations (Passenger Transport) Regulation 2005.

Definitions – the dictionary

Section 2 provides that the dictionary in schedule 11 defines particular words used in the regulation.

Notes

Section 3 provides that notes given in the regulation are considered to be part of the regulation.

Part 2 – Operator accreditation

Division 1 Preliminary

Purpose of Part 2

Section 4 provides that the purpose of the part is to provide for matters about operator accreditation for chapter 3 of the Act.

- Act, s 11 The purpose of operator accreditation is to encourage the high quality operation of public passenger services by –
- (a) raising standards and awareness of operators in the areas of safety, service delivery and business acumen; and
 - (b) ensuring public passenger service operators are held accountable for complying with appropriate standards.

Division 2 Provisions for applications and other matters

Section 5 provides that individuals, groups of individuals and corporations may apply, in the approved form, to the chief executive for the grant or renewal of operator accreditation.

Section 6 states that in considering an application for operator accreditation the chief executive must decide –

- to grant or renew operator accreditation, if the applicant complies with the requirements under the Act about granting or renewing operator accreditation; or
- if the applicant meets some but not all the standards applying to operator accreditation, and under section 8 of the regulation the chief executive may grant the person provisional operator accreditation – to grant provisional operator accreditation; or
- otherwise – to refuse to grant or renew operator accreditation under section 9 of the regulation.

Section 7 provides that the chief executive may grant operator accreditation on a provisional basis –

- if the person meets some but not all the applicable standards applying to the accreditation; or
- while the person's criminal history is being checked.

Subsection 2 allows the provisional accreditation to be granted subject to a condition requiring the person to meet all the applicable standards within a specified time.

For example, all operators providing a public passenger service (excluding taxi and limousines services) are required to complete an Operator Accreditation Workbook which assesses the operator's knowledge of the passenger transport legislative requirements and quality operating practices. Provisional operator accreditation may be granted to a person to allow them to enter the industry while their OA Workbook is completed and assessed within a specified period of time.

Subsection 3 provides that if the chief executive is satisfied that a person holding provisional operator accreditation complies with all the requirements under the Act about granting or renewing operator accreditation before the end of the term of the provisional accreditation, the chief executive may grant operator accreditation to the person.

Section 8 specifies that the chief executive may refuse to grant operator accreditation to a person or to renew a person's operator accreditation person if -

- the person has been convicted of a disqualifying offence; or
- the person has been charged with a disqualifying offence and the charge has not been finally disposed of; or
- the person does not comply with a standard applying to the operator accreditation; or
- an operator accreditation granted to the person has been cancelled or suspended; or
- the chief executive considers the person has behaved in a way that has damaged the reputation of public passenger services or accredited operators or otherwise is contrary to the encouragement of the high quality operation of public passenger services.

An example of when it may be necessary to refuse to grant or renew operator accreditation because a person has behaved in way that is damaging to the reputation of public passenger transport is if the accredited

operator has been charged or convicted of an offence (other than a disqualifying offence).

If the act or omission constituting the alleged offence or the offence placed at risk the safety of passengers, particularly children or other vulnerable members of the community, or involved the person acting fraudulently, the chief executive may consider the person has behaved in a way that has damaged the reputation of public passenger services or accredited operators or otherwise is contrary to the encouragement of the high quality operation of public passenger services.

Disqualifying offences have been established under the Act to assist in determining the suitability of persons to participate as operators in the public passenger transport industry.

A 'disqualifying offence' is defined under the schedule 3 of the Act and means –

- an offence against a provision of the Criminal Code mentioned in schedule 1 of the Act; or
- an offence against the Drugs Misuse Act 1986 or the Weapons Act 1990 punishable by imprisonment for 1 year or more, (even though a fine may be imposed in addition or as an alternative); or
- an offence prescribed by regulation; or
- an offence committed outside Queensland that would be a disqualifying offence if committed in Queensland.

Subsection 3 requires that if the chief executive decides to refuse to grant or renew operator accreditation to a person, the chief executive must inform the person of the decision in writing by issuing a regulation notice.

This subsection applies even if the chief executive decides to grant provisional operator accreditation to a person instead of operator accreditation.

A regulation notice means a written notice about the decision that includes–

- the decision and a statement of reasons for the decision; and
- an information notice for the decision.

An information notice, for a decision, means a notice stating that a person affected by the decision may –

- ask for the decision to be reviewed and appeal against the reviewed decision; and
- ask for the decision or the reviewed decision to be stayed.

This procedure ensures the affected person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their review and appeal rights.

A person's whose interests are affected by a decision made under this section may ask the chief executive to review the decision. The person must make the request for the review to the chief executive within 28 days after the notice was given to the person. The person may also apply for a stay of the chief executive's decision to the Magistrates Court.

The chief executive must give the person written notice of the outcome of the reviewed decision, stating the reasons for the reviewed decision and that the person may appeal against the reviewed decision to the Magistrates Court within 28 days. The person may also apply to the court to have the reviewed decision stayed.

Section 9 provides that operator accreditation can be issued and renewed for terms of not longer than 5 years.

Section 10 states that if a renewal notice for an operator accreditation is not sent by the chief executive, or not received by the accredited operator, this does not affect the expiry of the operator accreditation or the obligation of the holder to renew the accreditation before its expiry.

Section 11 specifies that the grounds on which the chief executive may amend, suspend or cancel a person's operator accreditation are if -

- the person is convicted of a disqualifying offence; or
- the person does not comply with a standard applying to the operator accreditation.

Subsection 2 provides that the chief executive may also suspend or cancel a person's operator accreditation if –

- the chief executive considers the person has behaved in a way that has damaged the reputation of public passenger services or accredited operators or otherwise is contrary to the encouragement of the high quality operation of public passenger services.

For example, the accredited operator has been charged or convicted of an offence (other than a disqualifying offence). If the act or omission constituting the alleged offence or the offence placed at risk the safety of

passengers, particularly children or other vulnerable members of the community or involved the person acting fraudulently, the chief executive may consider the person has behaved in a way that has damaged the reputation of public passenger services or accredited operators or otherwise is contrary to the encouragement of the high quality operation of public passenger services.

Subsection 3 outlines the procedure to be followed where the chief executive proposes to amend, suspend or cancel an accreditation. The procedure ensures the person is afforded their natural justice rights by providing a right of response on the proposed action to be taken and a right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

The chief executive must, before taking the proposed action, give the person a written notice about the proposed action to amend, suspend or cancel the accreditation. The written notice must –

- state the proposed action and the grounds for the proposed action; and
- outline the facts and circumstances forming the basis for the grounds; and
- if the proposed action is the amendment of the operator accreditation – state the proposed amendment; and
- if the proposed action is the suspension of the operator accreditation – state the proposed suspension period; and
- invite the person to show, within a stated time of at least 28 days, why the proposed action should be taken.

If, after considering all written representations made within the stated time, the chief executive is satisfied a ground exists to take the proposed action, the chief executive must give the accredited operator a regulation notice stating the action the chief executive has decided to take about the amendment, suspension or cancellation of the accreditation.

The chief executive may decide to take the proposed action or to take an alternative action having regard to the representations. This includes –

- if the proposed action was to amend the accreditation – to either amend the accreditation as stated in the regulation notice or to amend it in another way having regard to the representations; or
- if the proposed action was to suspend the accreditation – to suspend the accreditation for no longer than the period state in the regulation

notice, or to amend the accreditation having regard to the representations; or

- if the proposed action was to cancel the accreditation – to cancel the accreditation, or to suspend the accreditation for a period, or to amend the accreditation having regard to the representations.

Section 12 provides that the chief executive may immediately suspend a person's operator accreditation, by giving a regulation notice to the person, if –

- the person is charged with a disqualifying offence; or
- the chief executive otherwise considers it necessary in the public interest.

The Act expressly provides, under section 20(3), that a regulation may be made to authorise the chief executive to immediately suspend a person's operator accreditation in the public interest.

This provision enables the chief executive to immediately respond to any unforeseen matters or offences which may rule a person as being unsuitable to participate in the passenger transport industry and a risk to the personal safety and security of passengers.

Providing a regulation notice to the affected person ensures the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their review and appeal rights.

This procedure ensures the person is afforded their natural justice rights by providing a right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 2 specifies that the immediate suspension of a person's operator accreditation has effect until –

- if the ground is that the person has been charged with a disqualifying offence, the earlier of either the charge being finally disposed of, or the person's operator accreditation expires without being renewed; or
- in any other case, the earlier of either the chief executive giving the person a regulation notice under section 11(4) of the regulation to amend, suspend or cancel the accreditation, or the end of 56 days after the regulation notice is given to the person.

Section 13 applies if an accreditation has been immediately suspended, and the chief executive also proposes to take further action in relation to the

accreditation. That proposed action may be to further suspend, amend or cancel the accreditation.

Subsection 2 requires that, if the chief executive is proposing further action to amend, suspend or cancel the accreditation, the notice of immediate suspension given to the accredited operator must include additional information on the proposed action. The notice must invite the holder to make representations about why the proposed action should not be taken.

Subsection 3 requires that the procedure outlined in section 11(4) applies to the proposed action as if the regulation notice about the immediate suspension is a notice given under section 11(3).

Section 14 requires a person to return their operator accreditation if it is cancelled, or immediately suspended or suspended for longer than 1 week, or the accreditation is to be amended by the chief executive.

Subsection 2 requires the person to return the accreditation within 14 days after being given the regulation notice.

Subsection 3 provides that the cancellation, immediate suspension or suspension, or the amendment of the person's operator accreditation has effect from the date stated in the regulation notice about the matter, even if the person does not return the accreditation as requested.

Section 15 allows that a person's operator accreditation may also be amended by the chief executive, by giving a written notice to the person, if-

- the amendment is for a formal or clerical reason, or
- the amendment does not adversely affect the person's interests, or
- the person asks for the amendment to the accreditation.

Division 3 Miscellaneous matters relevant to operator accreditation

Section 16 provides that if a person is required to notify or inform the chief executive, or someone else (for example, an accredited operator) about disqualifying offences under certain sections of the Act, the notice must be given in writing and state the details of the charge and the day when the charge will be heard.

Subsection 2 specifies that if a person is required to notify or inform the chief executive, or someone else about the outcome of a disqualifying offence, the notice or information must also be given in writing.

Section 17 states that operator accreditation is not required for ferry services and certain community and courtesy transport services.

Any organisation or business that provides a community or courtesy transport service using one or two vehicles that can be driven on a "C" class driver's licence, and the service is not available to the general community, is exempt from the requirement to hold operator accreditation and to use authorised drivers.

Section 12 of the Act provides that a Regulation may prescribe services to which operator accreditation is not required.

Section 18 allows the chief executive to delegate powers to the specified industry associations the power under the legislation in relation to the granting or renewing of operator accreditation.

Part 3 – Driver authorisation

Division 1 Preliminary

Purpose of Part 3

Section 19 provides that the purpose of the part is to provide for matters about driver authorisation for chapter 4 of the Act.

- Act, s 23 The purpose of driver authorisation is to –
- maximise public confidence in public passenger services in relation to the drivers of public passenger vehicles;
 - ensure that drivers of public passenger vehicles –
 - are suitable persons to driver public passenger vehicles having regard to the need to provide for the personal safety of passengers and their property, and the public; and

- conduct themselves responsibly with passengers and the public; and
- are responsible in the act or driving and are capable of safely operating the relevant type of vehicle; and
- are aware of their customer service responsibilities; and
- are held accountable for complying with appropriate standards;
- ensure that drivers do not damage the reputation of public passenger transport.

Division 2 Provisions for applications and other matters.

Section 20 provides that an individual may apply, in the approved form, to the chief executive for the grant or renewal of driver authorisation.

Section 21 states that in considering an application for driver authorisation the chief executive must decide –

- to grant or renew driver authorisation, if the applicant complies with the requirements under the Act about granting or renewing driver authorisation; or
- if the applicant meets some but not all the standards applying to driver authorisation, and under section 24 of the regulation the chief executive may grant the person provisional driver authorisation – to grant provisional driver authorisation; or
- otherwise – to refuse to grant or renew driver authorisation under section 26 of the regulation.

Section 22 provides that the chief executive may grant driver authorisation on a provisional basis if the applicant meets some but not all of the applicable standards for the authorisation.

Subsection 2 allows the provisional driver authorisation to be granted subject to a condition requiring the person to meet all the applicable standards within a specified time.

For example, in many rural locations the school bus service is operated by an owner/driver. Depending on the availability of drivers, an operator may only be able to employ a driver who has not held a driver's licence for 3 continuous years and would therefore not meet the applicable driver authorisation standard. If the potential driver held a driver licence for 2½ years, the chief executive may consider granting a provisional driver authorisation to the person on the condition the person's driver licence will have be held for the continuous 3 year requirement on a set date. By issuing the provisional driver authorisation, the person would be able to work as an authorised driver.

Subsection 3 provides that if the chief executive is satisfied that a person holding provisional driver authorisation complies with all the requirements under the Act about granting or renewing driver authorisation before the end of the term of the provisional authorisation, the chief executive may grant driver authorisation to the person.

Subsection 4 allows the chief executive to grant a provisional driver authorisation to a person, without a formal application being made at that time, to ensure a public passenger service can continue to be provided in an emergency.

For example, if a school bus owner/driver becomes ill suddenly and is unable to drive the school bus, and there are no other authorised drivers available, the chief executive may grant a provisional driver authorisation to a person to ensure the continuity of services and the safe delivery of the school students to their destination.

However the grant of provisional driver authorisation in an emergency situation is subject to the condition that the driver will make a formal application for the authorisation as soon as practicable after the granting of the authorisation.

Section 23 allows the chief executive to impose a condition on a driver authorisation when granting or renewing a driver authorisation.

This section recognises that in certain circumstances it may be necessary to allow a person to drive a public passenger vehicle despite, for example, a medical condition that does not prevent a risk to the safe operation of a public passenger vehicle but which might restrict the driver to only working during daylight hours or for a restricted period of time.

If conditions are imposed on the authorisation, a regulation notice must be given to the person advising the reasons for the conditions and how the person may apply for a review, and if necessary, an appeal of the decision.

The person may also apply for a stay of the decision to the Magistrates Court.

Section 24 specifies that the grounds on which the chief executive may refuse to grant or renew driver authorisation to a person are if –

- the person does not comply with a standard applying to the driver authorisation; or
- a driver authorisation granted to the person has been cancelled or suspended; or
- the person has been convicted of a category C driver disqualifying; or
- the person has been charged with a driver disqualifying offence and the charge has not been finally disposed of; or
- the chief executive considers it necessary in the public interest having regard to the purpose of driver authorisation as stated in section 23 of the Act, including taking into consideration the requirement that drivers do not damage the reputation of public passenger transport; or
- the chief executive considers the person is unsuitable to hold driver authorisation having regard to their driving history.

Categories of driver disqualifying offences have been established under the Act to assist in determining the suitability of persons to participate as drivers in the public passenger transport industry.

Driver disqualifying offences relate to certain specified criminal offences, with those classified as a Category A driver disqualifying offences being the most serious offences.

Persons who have a category A driver disqualifying offence are ineligible to apply for or hold driver authorisation. Examples of a category A driver disqualifying offence include sexual offences against children and rape.

Persons who have a category B driver disqualifying offence are required to demonstrate to the chief executive that an exceptional case exists to prevent the chief executive from refusing to grant or renew, or to cancel their driver authorisation and that they are suitable person to drive public passenger vehicles. Examples of a category B driver disqualifying offence include murder, manslaughter, assault occasioning bodily harm, burglary.

Persons who have a category C driver disqualifying offence may also be required to demonstrate to the chief executive that they are a suitable person to drive public passenger vehicles. Examples of a category C driver

disqualifying offence include indecent acts, stealing, wilful damage, serious drug and weapon charges, and common assault.

In assessing a person's suitability to hold driver authorisation, the chief executive must have regard to the need to provide for the personal safety of passengers especially children and other vulnerable members of the community.

Subsection 2 requires that if the chief executive decides to refuse to grant or renew driver authorisation to a person, the chief executive must inform the person of the decision in writing by issuing a regulation notice.

This section applies even if the chief executive decides to grant provisional driver authorisation to a person instead of driver authorisation.

A regulation notice means a written notice about the decision that includes the decision and a statement of reasons for the decision, and an information notice for the decision.

An information notice, for a decision, means a notice stating that a person affected by the decision may ask for the decision to be reviewed and appeal against the reviewed decision, and ask for the decision or the reviewed decision to be stayed.

This procedure ensures the affected person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their review and appeal rights.

A person's whose interests are affected by a decision made under this section may ask the chief executive to review the decision. The person must make the request for the review to the chief executive within 28 days after the notice was given to the person. The person may also apply for a stay of the chief executive's decision to the Magistrates Court.

Section 25 provides that driver authorisation can be issued and renewed for terms of not longer than 5 years.

Section 26 states that if a renewal notice for a driver authorisation is not sent by the chief executive, or not received by the authorised driver, this does not affect the expiry of the driver authorisation or the obligation of the holder to renew the authorisation before its expiry.

Section 27 makes provisions for the matters about restricted driver authorisation.

Under this section, prescribed operators are given limited powers to issue a restricted driver authorisation to a person provided the specified criteria are met.

Subsection 1 provides that an accredited operator for a community transport service or a courtesy transport service (a "prescribed operator") may issue a restricted driver authorisation allowing a person to operate a public passenger vehicle while, and only while, it is being used by that prescribed operator to provide the service.

Subsection 2 states that the restricted driver authorisation can only be issued on the prescribed operator's initiative.

Subsection 3 mandates that a prescribed operator must not grant a restricted driver authorisation to a person unless –

- the prescribed operator is satisfied the person complies with all the applicable standards for the restricted driver authorisation; and
- the person gives the operator the following information about the person, and the operator has no reason to suspect the information is false –
- the chief executive has not refused to grant or renew the person's driver authorisation and has not cancelled or suspended any driver authorisation held by the person;
- the person has not been convicted of a driver disqualifying offence;
- there is no charge for a driver disqualifying offence against the person that has not been finally disposed of.

Subsection 4 provides that a restricted driver authorisation can be issued for a term of not longer than 1 year, but is not renewable. However, a new restricted driver authorisation may be granted after the expiry of the restricted driver authorisation.

A restricted driver authorisation is automatically cancelled when the holder stops being employed by the prescribed operator or when the holder stops operating a public passenger vehicle for the prescribed operator.

The automatic cancellation of the restricted driver authorisation mirrors the basis on which the authorisation may be issued in the first place – that is, the authorisation remains valid while, and only while, the person is driving a public passenger vehicle of the prescribed operator providing the service.

For example, if the holder of the restricted driver authorisation is no longer employed as a driver by the prescribed operator, or the driver chooses to

work for another prescribed operator, the restricted driver authorisation is automatically cancelled. However, a new restricted driver authorisation may be issued to the person by another prescribed operator if the matters set out in section 27(1)–(3) of the regulation are satisfied.

Subsection 5 provides that the prescribed operator must give a written notice to a person about the automatic cancellation of their restricted driver authorisation within 3 days of the cancellation.

Subsection 6 allows a prescribed operator to amend a person's restricted driver authorisation in limited circumstances. A prescribed operator may, for a restricted driver authorisation granted to a person by the operator, and by giving a written notice, amend the authorisation for a formal or clerical reason (including for example, a change of address) or in another way that does not adversely affect the person.

If it necessary to take any other action against a person holding restricted driver authorisation (such as imposing a condition, or suspending, or cancelling the authorisation), the action will be taken by the chief executive, not the prescribed operator, under the relevant section of the regulation. A decision made by the chief executive for these actions is a reviewable decision and the person may apply for a review and appeal, as well as a stay, of the decision.

For example, if a person holding a restricted driver authorisation was convicted of a category C driver disqualifying offence, the chief executive may take action to suspend or cancel the restricted driver authorisation in accordance with the provisions of sections 28 and 29 of the regulation.

Subsection 7 requires the person to return the evidence of the restricted driver authorisation to the prescribed operator as soon as practicable after being given a written notice about the automatic cancellation or amendment of the authorisation.

Subsection 8 requires the restricted driver authorisation granted by the prescribed operator under subsection 1 to be in the approved form.

Section 28 specifies the grounds on which the chief executive may amend, suspend or cancel a person's driver authorisation.

Subsection 1 provides that the chief executive may amend a person's driver authorisation, including by altering the term of the authorisation or by imposing a condition on the authorisation, if –

- the person has been convicted of a category B or a category C driver disqualifying offence; or

- the person has been charged with a driver disqualifying offence and the charge has not been finally disposed of; or
- the person does not comply with a standard applying to the driver authorisation; or
- the chief executive considers it necessary in the public interest having regard to the purpose of driver authorisation as stated in section 23 of the Act, including taking into consideration the requirement that drivers do not damage the reputation of public passenger transport; or
- the chief executive considers the person is unsuitable to hold driver authorisation having regard to the person's driving history.

Subsection 2 provides that the grounds for suspending or cancelling a driver authorisation are if –

- the person has been convicted of a category C driver disqualifying offence; or
- the person does not comply with a standard applying to the driver authorisation; or
- the chief executive considers it necessary in the public interest having regard to the purpose of driver authorisation as stated in section 23 of the Act, including taking into consideration the requirement that drivers do not damage the reputation of public passenger transport; or
- the chief executive considers the person is unsuitable to hold driver authorisation having regard to the person's driving history.

Subsection 3 requires that if the chief executive proposes to amend a person's driver authorisation by imposing a condition, instead of taking exclusion action against a person convicted of a category B driver disqualifying offence because an exceptional case exists, the action to amend the authorisation must be taken in accordance with the requirements of section 34.

Any other action to amend, suspend or cancel a driver authorisation must be taken as required by section 29.

A decision made under this section is a reviewable decision.

Section 29 sets out the process to be taken if the chief executive decides to amend, suspend or cancel a person's driver authorisation for the reasons specified under section 28.

Subsection 2 states that this section does not apply to decisions under sections 33 or 34 of the regulation about actions against driver authorisation for a person convicted of category B driver disqualifying offence.

Subsection 3 requires that, before taking the action to amend, suspend or cancel a person's driver authorisation, the chief executive must give the person a written notice about the proposed action –

- stating the proposed action and the grounds for the proposed action; and
- outlining the facts and circumstances forming the basis for the grounds; and
- if the proposed action is the amendment of the authorisation – state the proposed amendment; and
- if the proposed action is the suspension of the authorisation – state the proposed suspension period; and
- inviting the person to show, within a stated time of at least 28 days, why the proposed action should not be taken.

After considering all written representations made within the stated time, if the chief executive is satisfied a ground exists to take the proposed action, a regulation notice must be given to the person stating the action to be taken by the chief executive to amend, suspend or cancel the accreditation.

This procedure ensures the person is afforded their natural justice rights by providing a right of response on the proposed action to be taken and a right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Section 30 provides that the chief executive may immediately amend a person's driver authorisation by imposing a condition on the authorisation, or immediately suspend a person's driver authorisation.

Subsection 1 allows the chief executive to immediately amend a person's driver authorisation by imposing a condition on the authorisation if –

- the person has been convicted of a category B or category C driver disqualifying offence; or
- the person has been charged with a driver disqualifying offence and the charge has not been finally disposed of; or

- the chief executive considers it necessary having regard to the purpose of driver authorisation as stated in section 23 of the Act, including taking into consideration the requirement that drivers do not damage the reputation of public passenger transport.

For example, if a bus driver is allegedly involved in an altercation with a school student, the chief executive may decide to immediately amend the person's driver authorisation by imposing a condition that the person can not drive school buses. This amendment would allow the person to continue to drive other types of public passenger services, such as a tourist service.

Subsection 2 enables the chief executive to immediately suspend a person's driver authorisation if –

- the person has been convicted of a category B or category C driver disqualifying offence; or
- the person has been charged with a driver disqualifying offence and the charge has not been finally disposed of; or
- the person does not comply with a notice given by the chief executive requiring the person to provide evidence of their medical fitness to operate a public passenger vehicle; or
- the chief executive considers it necessary in the public interest having regard to the purpose of driver authorisation as stated in section 23 of the Act, including taking into consideration the requirement that drivers do not damage the reputation of public passenger transport.

The Act expressly provides, under section 32(3), that a regulation may authorise the chief executive to immediately suspension a person's driver authorisation if it is considered necessary in the public interest.

This provision enables the chief executive to immediately respond to any arising matters or offences which may rule a person as being unsuitable to participate as a driver in the public passenger transport industry.

For example, if a public transport driver is charged with an offence, which is not a driver disqualifying offence, but the circumstances of the offence are considered to place at risk the safety of passengers and/or the reputation of the public passenger transport, the chief executive must be able to take decisive action against the person. An immediate suspension of a person's driver authorisation in these cases allows the removal of the driver from the industry immediately and, in this example, until such time as time as the charge has been disposed of through the judicial system.

It may also be in the public interest to immediately suspend a person's driver authorisation if the driver was involved in an incident, directly involving a passenger or a member of the public, while the driver was providing a public passenger service.

In making a decision about a person's driver authorisation, the Act requires the chief executive to have regard to the paramount principle to provide for the personal safety of passengers, especially children and other vulnerable members of the community.

Section 31 sets out the process to be taken if the chief executive decides to immediately amend a person's driver authorisation by imposing a condition, or to immediately suspend a person's driver authorisation, for the reasons specified under section 32.

Subsection 2 provides that the chief executive is able to immediately amend, or immediately suspend, a person's driver authorisation even if the chief executive takes exclusion action against a person's driver authorisation because they have been convicted of a category B driver disqualifying offence.

Subsection 3 requires the chief executive to give a person a regulation notice about the immediate amendment or immediate suspension of the person's driver authorisation.

Giving a regulation notice to the affected person ensures the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their review and appeal rights.

This procedure ensures the person is afforded their natural justice rights by providing a right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 4 specifies that the immediate amendment or immediate suspension of a person's driver authorisation has effect until –

- if the ground is that the person has been convicted of a category B driver disqualifying offence, the earlier of either the chief executive giving the person a regulation notice under section 33(2) or 34(2) about the chief executive's decision to take, or not to take, the exclusion action; or the end of 56 days after the regulation notice is given to the person; or
- if the ground is that the person has been charged with a disqualifying offence, the earlier of either the charge being finally disposed of, or the person's driver authorisation expires without being renewed; or

- in any other case, the earlier of either the chief executive giving the person a regulation notice under section 29(4) of the regulation to amend, suspend or cancel the authorisation, or the end of 56 days after the regulation notice is given to the person.

Section 32 applies if the chief executive decides to take action to immediately amend or immediately suspend a person's driver authorisation at the same time as taking further action to amend, suspend or cancel the authorisation.

For example, if a driver has assaulted a person while providing a public passenger service, the chief executive may decide to immediately suspend the driver so that he can not continue to drive a public passenger service. During the period of immediate suspension, the chief executive may take further action against the driver by either suspending or cancelling the person's driver authorisation.

Subsection 2 requires that, if the chief executive is proposing further action against the accreditation, the notice of immediate amendment or immediate suspension given to the authorised driver must also include the information under section 29(3) about the proposed further action to amend, suspend or cancel the authorisation.

The notice must invite the holder to make representations about why the proposed further action should not be taken.

Subsection 3 requires that the procedure outlined in section 29(4) applies to the proposed action as if the regulation notice about the immediate amendment or immediate suspension is a notice given under section 29(3).

Section 33 specifies the process to be taken if the chief executive decides to refuse to grant or renew, or to cancel a person's driver authorisation because the person has been convicted of a category B driver disqualifying offence, and it has been decided that an exceptional case (not to take exclusion action) does not exist.

Subsection 2 requires the chief executive to give the affected person a regulation notice about the decision to take the exclusion action.

This procedure ensures the affected person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their review and appeal rights.

A person's whose interests are affected by a decision made under this section may ask the chief executive to review the decision. The person

must make the request for the review to the chief executive within 28 days after the notice was given to the person. The person may also apply for a stay of the chief executive's decision to the Magistrates Court.

Section 34 sets out the process to be taken if the chief executive decides to amend a person's driver authorisation to impose a condition on it because the person has been convicted of a category B driver disqualifying offence and the chief executive has decided that an exceptional case does exist (not to take the exclusion action to refuse to grant or renew, or to cancel the driver authorisation).

Subsection 2 requires the chief executive to give the affected person a regulation notice about the decision to either grant the authorisation with a condition imposed on it, or to amend the authorisation by imposing a condition on the authorisation.

Giving a regulation notice to the affected person ensures the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their review and appeal rights.

Section 35 requires a person to return their driver authorisation for amendment by the chief executive if a notice issued by the chief executive under sections 29(4), or 31(3) or 38(2) to the person requests them to return the authorisation. The authorisation must be returned within 14 days.

Subsection 2 provides that the amendment of the driver authorisation takes effect from the date stated in the notice even if the person does not return the driver authorisation to the chief executive for amendment.

Subsection 3 sets out the defined terms for this section.

Section 36 requires a person to return their driver authorisation to the chief executive if the person has been given a regulation notice to –

- cancel the person's driver authorisation; or
- suspend the person's driver authorisation for longer than 3 months; or
- immediately suspend the person's driver authorisation for any period.

Subsection 2 requires the person to return the authorisation to the chief executive within 14 days after being given the regulation notice.

Subsection 3 provides that the cancellation, immediate suspension or suspension of the driver authorisation takes effect from the date stated in the notice even if the person does not return the authorisation to the chief executive.

Section 37 provides that if a person's driver licence is suspended or cancelled or the person is disqualified from holding or obtaining a driver's licence for a period, then the person's driver authorisation is also suspended, cancelled or disqualified for that period.

Section 38 allows that a person's driver authorisation may also be amended by the chief executive, by giving a written notice to the person, if –

- the amendment is for a formal or clerical reason; or
- the amendment does not adversely affect the person's interests; or
- the person asks for the amendment to the authorisation.

Section 39 enables the chief executive to notify an operator if the driver authorisation of one of the operator's drivers is amended, suspended or cancelled.

Subsection 2 provides that the chief executive may also advise the operator of a condition that has been imposed on the driver's authorisation.

For example, a bus driver may have a condition imposed on his driver authorisation restricting the number of hours he may drive a public passenger vehicle due to a medical condition. The operator must be made aware of the imposed condition on the authorisation to ensure the driver does not exceed the restriction.

Division 3 Miscellaneous matters relevant to driver authorisation

Section 40 provides that if a person is required to notify or inform the chief executive, or someone else (for example, an accredited operator) under certain sections of the Act about a driver disqualifying offence or the suspension or cancellation of their driver's licence or any other required authorisation, the notice or information must be in writing.

Section 41 applies if a person who is applying for, or renewing, a driver authorisation is required under an applicable standard to provide evidence of the person's medical fitness to operate a public passenger vehicle, or if the chief executive suspects an authorised driver is no longer medically fit to operate a public passenger vehicle under the driver authorisation.

Subsection 2 allows the chief executive, by written notice, to require a person to provide evidence of their medical fitness to drive a public passenger vehicle under the driver authorisation.

Section 42 states that driver authorisation is not required for ferry services and community and courtesy transport services using one or two vehicles that can be driven on a "C" class driver's licence, and the service is not available to the general community.

Section 24 of the Act provides that a Regulation may prescribe services for which driver authorisation is not required.

Section 43 provides for the delegation of powers to specified industry associations for the granting or renewing of driver authorisation.

Part 4 – Market entry restrictions

Purpose of Part 4

Section 44 provides that the purpose of the part is to declare that public passenger services are to be provided with market entry restrictions, as mentioned in section 36 of the Act.

Section 45 provides that schedule 1 of the regulation identifies the public passenger services that may be provided with market entry restrictions in an area or over a route if the matters set out in section 36 of the Act are considered to be met.

A declaration under section 42, 42A or 71 of the Act is required to be made to declare that the market entry restrictions apply to a type of public passenger service mentioned in schedule 1, column 1 for a specific area or route listed opposite the service in column 2 from a fixed date stated in the declaration.

Part 5 – Service contracts

Purpose of Part 5

Section 46 provides that the purpose of the part is to provide for matters in relation to service contracts as required by, or otherwise for, chapter 6 of the Act.

Act, s 37 The purpose of service contracts is to hold operators accountable for minimum performance levels to ensure the communities served under the contracts receive, at a reasonable cost, quality and innovative public passenger services.

Section 47 specifies the matters the chief executive must consider in deciding whether an offer for a service contract is acceptable. Section 59(2)(e) of the Act specifies matters that must be considered in deciding whether to accept an offer for a service contract and provides that matters prescribed under a regulation must also be considered.

Section 48 specifies the matters an arbitrator must, or must not, consider in deciding an amount of compensation to apply in certain circumstances to affected operators for decisions made about service contracts under the Act.

Section 49 specifies the matters the chief executive must consider in deciding whether an offer for a TransLink service contract is acceptable. Section 62AAE(2)(d) of the Act specifies matters that must be considered in deciding whether to accept an offer for a service contract and provides that matters prescribed under a regulation must also be considered.

Section 50 provides that the chief executive may declare, by gazette notice, that a service contract is required to provide a service for the administration of taxi services (that is, a taxi booking service) from a specified date.

Section 51 provides that schedule 2 of the regulation prescribes the service contract areas or routes for the TransLink area.

The "TransLink area" is defined under the Act as the service contract areas or routes mentioned in schedule 2A, column 2 of the Act, and any other service contract areas or routes in the SEQ area that are prescribed under a regulation for this definition.

Part 6 – Taxi services

Division 1 Preliminary

Purpose of Part 6

Section 52 provides that the purpose of the part is to provide for matters in relation to taxi service licences as required by, or otherwise for, chapter 7 of the Act.

Act, s 68 The purpose of taxi service licences is to ensure that the communities served by taxis receive quality and innovative taxi services at a reasonable cost.

Section 53 imposes a limit on the number of taxi service licences a person, or an associate of the person, may hold or lease in a taxi service area.

Subsection 1 provides that if there are more than 10 but not more than 20 taxi service licences for a taxi service area, a person must not hold more than 10 of the licences.

Subsection 2 provides that if there are more than 20 taxi service licences for a taxi service area, a person must not hold more than 50% of the licences.

Subsection 3 states that a taxi service licence held by an associate of a person is taken to be held by the person.

Subsection 4 sets out the definition of an associate, for the purposes of this section.

Section 54 provides that a holder of a taxi service licence for a taxi service for an area may transfer or lease a taxi service licence, or enter into other operating arrangements about the licence, with another person who is accredited to provide the service.

Subsection 2 requires the holder of a taxi service licence to give the chief executive prior written notice about the transfer or lease of a taxi service licence before the transfer or leases takes effect.

Subsection 3 requires the holder of a taxi service licence to give the chief executive prior written notice about the end of a lease of a licence before the lease ends.

Subsection 4 provides that the holder of a taxi service licence may surrender the licence by giving written notice to the chief executive of the surrender. The surrender of the licence takes effect from the day the notice is received by the chief executive or a later day stated in the written notice.

Section 55 provides that the chief executive may amend the conditions of a taxi service licence if the chief executive is satisfied the amendment will result in a higher quality of service or will better meet the needs of users.

Subsection 2 allows the chief executive to suspend or cancel a person's taxi service licence if –

- the person has been convicted of a disqualifying offence; or
- the person contravenes a condition of the licence; or
- the licence fees are unpaid.

Section 56 sets out the process to be followed if the chief executive considers a ground exists to amend the conditions of a person's taxi service, or to suspend or cancel a person's taxi service licence under section 55.

The procedure ensures the person is afforded their natural justice rights by providing a right of response on the proposed action to be taken and a right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 2 requires that, before taking the proposed action, the chief executive must give the person a written notice about the proposed action to amend the conditions of the taxi service licence, or to suspend or cancel the taxi service licence. The written notice must –

- state the proposed action and the grounds for the proposed action; and
- outline the facts and circumstances forming the basis for the grounds; and
- if the proposed action is the amendment of the conditions of the service licence – state the proposed amendment; and
- if the proposed action is the suspension of the service licence – state the proposed suspension period; and
- invite the person to show, within a stated time of at least 28 days, why the proposed action should be taken.

Subsection 3 provides that if, after considering all written representations made within the stated time, the chief executive is satisfied a ground exists to take the proposed action, a regulation notice must be given to the holder

of the taxi service licence stating the action to be taken by the chief executive to amend to the conditions of the service licence, or to suspend or cancel the service licence.

The chief executive may decide to take the proposed action or to take an alternative action having regard to the representations made about the proposed action. This includes –

- if the proposed action was to amend the conditions of the taxi service licence – to either amend the service licence as stated in the regulation notice or to amend it in another way having regard to the representations; or
- if the proposed action was to suspend the taxi service licence – to suspend the service licence for no longer than the period state in the regulation notice, or to amend the conditions of the service licence having regard to the representations; or
- if the proposed action was to cancel the taxi service licence – to cancel the service licence, or to suspend the service licence for a period, or to amend the conditions of the service licence having regard to the representations.

Section 57 provides that the chief executive may immediately suspend a person's taxi service licence, by giving a regulation notice to the person, if the chief executive considers it necessary in the public interest.

For example, if the person has behaved in a way the chief executive considers is damaging to the reputation of public passenger transport.

The Act expressly provides, under section 79(3), that a regulation may be made to authorise the chief executive to immediately suspend a person's taxi service licence in the public interest.

This provision enables the chief executive to immediately respond to any arising matters or offences which may rule a person as being unsuitable to participate in the passenger transport industry.

The requirement to issue a regulation notice to the person ensures the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their review and appeal rights.

This procedure ensures the person is afforded their natural justice rights by providing a right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 2 specifies that the immediate suspension of a person's taxi service licence has effect until the earlier of either the chief executive giving the person a regulation notice under section 56(3) of the regulation to amend the conditions of the service licence, or to suspend or cancel the service licence, or the end of 56 days after the regulation notice under this section is given to the person.

Section 58 applies if a person's taxi service licence has been immediately suspended under section 57, and the chief executive also proposes to take further action to amend the conditions of the service licence, or to suspend or cancel the taxi service licence under section 56.

Subsection 2 requires that, if the chief executive is proposing further action against the person's taxi service licence, the notice of immediate suspension given to the person must include additional information on the proposed further action.

Subsection 3 requires that the procedure outlined in section 56(3) applies to the proposed action as if the regulation notice about the immediate suspension of the taxi service licence were a notice given under section 56(2).

Section 59 requires a person to return their taxi service licence to the chief executive if the person has been given a regulation notice cancelling, suspending (including immediately suspending), or amending the conditions of the service licence.

Subsection 2 requires the person to return the taxi service licence to the chief executive within 14 days after being given the regulation notice.

Subsection 3 provides that the amendment of the conditions of the service licence, or the cancellation, immediate suspension or suspension of the taxi service licence takes effect from the date stated in the notice even if the person does not return the service licence to the chief executive.

Section 60 allows that a person's taxi service licence may also be amended by the chief executive, by giving a written notice to the person, if -

- the amendment is for a formal or clerical reason, or
- the amendment does not adversely affect the person's interests, or
- the person asks for the amendment to the accreditation.

Division 2 Operation of taxi services and taxis generally

Section 61 provides that it is an offence for a person to advertise a taxi service unless the service is provided by the operator of a taxi service licence.

Section 62 provides that the driver of a taxi that is available for hire must not refuse a hiring for a destination within the taxi's licensed service area or within 40 km of the pick-up point.

Section 63 sets out matters about the fares and charges for taxi services.

Subsection 1 provides that the driver of a taxi, to which the maximum fares under section 74A of the Act apply, must not charge more than the maximum fare determined by the chief executive.

Section 74A of the Act allows the chief executive to decide, by gazette notice, the maximum fares applicable to taxis. Under section 74A(2) of the Act, the chief executive may also decide that maximum fares do not apply to a type of taxi stated in the notice if the chief executive is satisfied that under the procedure used to book the type of taxi the hirer has specifically asked for the type of taxi, and the operator and the hirer have to agree on the amount of the fare at the time of the booking.

Subsection 2 provides that for taxis to which the maximum fares do not apply, as mentioned under section 74A(2) of the Act, the taxi driver must not demand more than the agreed fare amount at the time of booking the taxi.

For example, if a person makes a booking for a taxi and requests a specific type of vehicle to be provided, such as a high-occupancy taxi (over 4 passengers) to accommodate a group of people travelling together, an additional fee for the hire of that type of vehicle may be imposed at the time of booking the taxi. This hiring fee is in addition to the metered fare charged for the journey.

Subsection 3 allows a taxi driver to charge a person who soils the taxi an additional amount of not more than one penalty unit (\$75) for cleaning the taxi. The person must also pay the fare for the taxi journey.

Subsection 4 provides that if a taxi driver believes that they will not be able to obtain the fare at the destination, the driver may require the hirer to pay

the estimated fare or an agreed amount as a deposit for the fare, before starting the hiring.

Subsection 5 requires the taxi driver to drive to the destination requested by the hirer in a way that does not involve excess charging.

Section 64 provides that the operator of a taxi must ensure that the taxi is fitted with a taximeter, unless the taxi service licence for the taxi exempts the operator from this requirement.

Subsection 2 requires the operator of a taxi to ensure the taximeter records fares in a way that ensures the maximum fares approved by the chief executive, under section 74A(1) of the Act, are not exceeded.

Section 65 specifies the requirements for the operation of a taximeter by a taxi driver. This section applies to a taxi, fitted with a taximeter, to which the maximum fares under section 74A of the Act. It also applies to a taxi under section 74A(2) of the Act for an agreed fare worked out by referring to the appropriate metered fare for the journey that would otherwise be payable.

Subsection 2 states that a taxi driver must only activate the taximeter –

- when the hirer enters the taxi for a hail or rank hiring, or
- for a booking, when the hirer is notified of the taxi's arrival, or
- for a booking at a specific time, at that time or when the hirer enters the taxi – whichever is earlier.

Subsection 3 requires the taxi driver to stop the taximeter from registering a charge during the hiring for any period during which the vehicle is unable to continue the hiring.

Subsection 4 requires the taxi driver to deactivate the taximeter before asking for, or receiving, payment or a voucher –

- on arrival at the destination for a hiring other than a multiple-hiring under section 66; or
- for a multiple hiring – on arrival at the last destination.

Section 66 provides for the multiple hiring of a taxi fitted with a taximeter. Subsection 1 permits the driver of a taxi to carry out 2 or more individual hirings at the same time. A multiple hiring can only be conducted if –

- all hirers agree to the taxi driver accepting the other hirings; and

- the hirers are travelling to destinations in the same locality, or destinations in the same general direction; and
- the fare payable by each hirer is less than the maximum metered fare that would be payable by that hirer for a journey direct to that hirer's destination; and
- each hirer is advised of the rate of discount applying or the applicable fare before the journey commences; and
- the hirings are not provided to a timetable.

Subsection 2 makes it an offence for a taxi driver to carry out 2 or more individual hirings at the same time except under the provisions of subsection 1.

Section 67 requires the operator of a taxi service, other than an exempted taxi, to ensure the taxi is not older than 8 years from the date of manufacture for a wheelchair accessible taxi, or otherwise 6 years from the date of manufacture.

Subsection 2 clarifies that the maximum age limit also applies to a taxi that is a luxury motor vehicle.

Section 68 provides that a taxi driver must take control over the opening and shutting of the taxi's doors if a prospective hirer, or the parent or guardian of a prospective hirer, asks the driver to do so, and the design of the taxi allows the driver to take control over the doors by using a device.

For example, if a parent requests the taxi driver to engage the child-proof locks on the taxi's doors to prevent a child from opening and shutting the doors.

This section does not override the requirement under schedule 5 of the regulation requiring taxis to be constructed so passengers have control over the opening and shutting of the vehicle's doors independently of the driver.

Section 69 provides that if a taxi is fitted with an air conditioner, the operator of the taxi must ensure the air conditioner is fully operational and in good repair.

Subsection 2 requires a taxi driver to turn the air conditioner on, or off, if asked to do so by a hirer.

Section 70 prohibits a person from allowing a vehicle to look like a taxi unless the vehicle is a licensed taxi. Subsection 1 states that a person must not place, or cause or permit to be placed, any printing or signage on a

vehicle that reasonably implies that vehicle is a taxi unless it is a vehicle for which a taxi service licence is in force.

Subsection 2 requires a taxi operator to take action, by removing the equipment and signage, to stop a vehicle looking like a taxi as soon as the vehicle is no longer being used as a taxi.

Subsection 3 states this section does not apply to a vehicle used as a substitute taxi under a substitute taxi authority.

Substitute taxis are only able to be used as a taxi in substitution of a licensed taxi when the licensed taxi is unavailable due to a major mechanical failure or accident, or another circumstance stated in the substitute taxi authority. The exemption from the requirements of this section will allow a substitute taxi to remain fitted with the equipment and signage at all times.

Division 3 Substitute taxis

Purpose of Division 3

Section 71 provides that the purpose of the division is to allow a person who administers taxi services under a service contract, or the holder of a taxi service licence for an area other than an area where a taxi service contract is in place, to arrange for the use of a vehicle that is not a licensed taxi in substitution of a licensed taxi under specified circumstances.

Section 72 sets out the definitions for this division which are required to provide clarity about the operation of substitute taxis.

Section 73 provides that a person who is an "authorised provider" under this division, may apply to the chief executive for an authority to provide substitute taxis (a "substitute taxi authority").

Substitute taxi authorities may be issued to an "authorised provider" who is—

- a person who administers taxi services in a relevant area (for example, a taxi booking company); or
- the holder a taxi service licence for an area, other than a relevant area (for example, a taxi operator in an exempted taxi area).

In this division, a "relevant area" means an area in which the administration of taxi services must be performed under a service contract as mentioned in section 66 of the Act.

Section 74 provides that the chief executive must consider an authorised provider's application for a substitute taxi authority and decide to grant the authority, with or without conditions; or to refuse to grant the authority.

Subsection 2 provides that if the chief executive refuses to grant a substitute taxi authority, or imposes a condition on the grant of a substitute taxi authority, the chief executive must give a regulation notice about the decision to the authorised provider.

Providing a regulation notice to the affected person ensures the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their review and appeal rights.

This procedure ensures the person is afforded their natural justice rights by providing a right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 3 allows the chief executive, as part of considering the application for the grant of a substitute taxi authority, to consider arrangements under which the authorised provider operates. This includes, for example, if the vehicles to be used as substitute taxis are to be owned, operated or managed by another person.

For example, an authorised provider (such as a taxi booking company) may request approval to subcontract the operation of a substitute taxi to a taxi management company affiliated with the taxi booking company.

Section 75 specifies that an authorised provider may only use a substitute taxi if a licensed taxi used to provide a taxi service can not be used because of a major mechanical failure or a major accident or another circumstance stated in the substitute taxi authority.

For example, it may be necessary in some circumstances to be able to use a four wheel drive vehicle when roads are impassable after heavy rain.

The use of substitute taxis will ensure that taxi services can continue to be provided to the community without disruption if a taxi is unable to continue to operate under certain circumstances.

Section 76 requires an authorised provider to comply with the conditions of the substitute taxi authority.

Section 77 allows the chief executive to cancel a substitute taxi authority if the authorised provider contravened or is contravening a condition of the authority.

Subsection 2 provides that before cancelling the authority, the chief executive must give the authorised provider a written notice about the proposed cancellation. The written notice must –

- state the proposed cancellation action is being considered by the chief executive and the grounds for the cancellation; and
- outline the facts and circumstances forming the basis for the grounds; and
- invite the person to show, within a stated time of at least 28 days, why the authority should not be cancelled.

Subsection 3 provides that if, after considering all written representations made within the stated time, the chief executive is satisfied the authorised provider contravened or is contravening a condition of the authority, the chief executive may, by giving a regulation notice to the authorised provider, cancel the authority.

Requiring a regulation notice to be given the authorised provider ensures the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 4 requires the authorised provider to return the substitute taxi authority to the chief executive within 14 days after the regulation notice is given to the authorised provider.

Subsection 5 provides that the cancellation of the substitute taxi authority takes effect from the date stated in the notice even if the person does not return the authority to the chief executive.

Section 78 provides that an authorised provider must not use, or allow the use of, a substitute taxi unless the vehicle –

- is stated in the substitute taxi authority as a vehicle that may be used as a substitute taxi; and
- complies with the conditions of taxi service licence under which the substitute taxi is to be operated (for example, the substitute taxi may only be operated in the same service area as the licensed taxi is authorised for); and

- displays the letters "ST" on the rear and side panels of the taxi so that it is clearly identified as a substitute taxi; and
- if the vehicle being used as a substitute taxi is a metered taxi, displays a substitute taxi licence plate issued by the chief executive.

Section 79 specifies the written records an authorised provider is required to keep about the use of a substitute taxi instead of a licensed taxi.

Subsection 2 requires the authorised provider to keep, or arrange for the keeping of, specified information in the substitute taxi when it is being used instead of a licensed taxi.

This information is required so that authorised officers of the Department are able to confirm the substitute vehicle is being used in an authorised manner and the services being provided to the community are done so in a safe and lawful manner. This is particularly important for on-road compliance activities.

Section 80 provides that if a substitute taxi is not being used, an authorised provider must –

- at the request of the chief executive, make the substitute taxi available for inspection by the chief executive; and
- keep the substitute taxi at a place that is not a public place, unless the substitute taxi is being used other than for providing a taxi service; and
- not stand the substitute taxi in a place or a way that would suggest that the vehicle is available for hire as a taxi.

Subsection 2 provides that if the substitute taxi is used to provide any other public passenger service (for example, a tour service), the authorised provider must keep a written record of the information required under section 124(b), (c), (d) and (e) of the regulation for the vehicle.

Division 4 Taxi security camera systems

Section 81 sets out the definitions for this division which are required to provide clarity about the operation taxi security camera systems. The definitions clarify that:

- an approved taxi security camera system is a taxi security camera system that has been approved or is taken to be approved by the chief executive.
- an approved taxi security camera system sign is a sign approved by the chief executive.
- the authorised purposes for which an image may be used by the operator, or executive officer of the taxi service or an employee under the immediate supervision of those persons, is the examination of a complaint relating to the taxi or an event that happened in or about a taxi. The complaints may relate to fare evasion, lost property, disorderly conduct, offensive behaviour, theft of property, and physical assaults that do not cause injury.
- the authorised purposes in which an image may be used includes in the lead up to, and for, the prosecution of, or for the issue of an infringement notice for an offence committed in or about a taxi.
- the authorised purposes in which an image may be used by Queensland Police Service may be for another purpose relating to a police officer's duties.
- the authorised purposes in which an image may be used by a Department officer, is for a purpose relating to the administration of the taxi security camera system.
- the authorised purposes in which an image maybe used by a manufacturer or supplier of the taxi security camera system includes to maintain, or address a failure in the system.
- 'fully operational' means when the visual indicator designed to show whether the approved taxi security camera system on system, indicates the taxi security camera system is working.
- 'holder' of a taxi service licence, includes the authorised provider of a substitute taxi.
- an 'image recording' includes electronically stored information from which an image could be generated, and any printout or reproduction of the recorded image.
- 'relevant place' for an approved taxi security camera system sign, means each door of the taxi, and another conspicuous place inside the taxi.

- 'relevant taxi service area' means a taxi service area described in schedule 3 of this regulation.
- 'taxi' includes a substitute taxi being used as a substitute taxi.
- 'taxi security camera system' means a system designed to record images in or about a taxi.
- 'use' an image recording in the context of 'a person must not use an image recording' includes sell or supply an image recording, and disclose the image recording to another person.

Section 82 requires the holder of a taxi service licence in a relevant area that the taxi operated under the licence must be fitted with an approved taxi security camera system.

Subsection 2 requires the approved taxi security camera system is fully operational; and the approved taxi security camera system signs are displayed in the relevant places when the holder of the taxi licence makes it available to the operator.

Section 83 requires the operator of a taxi service fitted with an approved taxi security camera system at the time the taxi is made available to the driver; that the approved taxi security camera system is fully operational; and the approved taxi security camera system signs are displayed in the relevant places.

Section 84 requires the driver of a taxi fitted with an approved taxi security camera system at the time the taxi is made available for hire; that the approved taxi security camera system is fully operational; and the approved taxi security camera system signs are displayed in the relevant places.

Section 85 provides that a taxi that is fitted with a taxi security camera system that operates in a taxi service area that is not a 'relevant taxi service area' may continue to operate if the taxi security camera system is not working. If the taxi is to continue operating then the holder of the taxi service licence or the operator must give the chief executive written notice that the taxi security camera system is not working, or will not be working during a period due to maintenance or repairs. A copy of the notice given to the chief executive must be kept in the taxi during the notice period.

Subsection 2 provides that the holder of a taxi service licence or operator do not commit an offence against section 82(2) or 83 for making the taxi available to another person during the notice period that the taxi security camera system is not working.

Subsection 3 provides that the driver does not commit an offence against section 84 for driving the taxi during the notice period that the taxi security camera system is not working.

Subsection 4 clarifies that the term 'gives' includes sending by mail, facsimile or email, and 'notice period means the latter of; the day the notice is give to the chief executive; or the day stated in the notice as the first day the approved taxi security camera system will not be working; or the day ending on the day stated in the notice as the last day the approved taxi security camera system will not be operational; but not more than 4 days after the period starts.

Section 86 provides for the chief executive to approve specifications for a taxi security camera system by gazette notice.

Section 87 provides for the chief executive to approve or revoke an approval of a taxi security camera system by gazette notice.

Subsection 2 enables the chief executive to approve a taxi security camera system subject to conditions.

Subsection 3 provides for (but does not limit) the conditions under which an approval may be subject. The conditions may relate to the technical and functional specifications, the requirements for support services, the maintenance of the taxi security camera system, security controls, and the use and disclosure of image recordings, or other conditions.

Subsection 4 provides that the chief executive may revoke an approval for a taxi security camera system if the chief executive reasonably believes it no longer complies with the specifications or the approval, or the manufacturer or supplier of the camera system has breached a condition of the approval.

Subsection 5 provides that if an approval for a taxi security camera system is revoked, the camera is 'taken to be approved' for a period of 6 months (relevant period). This ensures the taxi booking company, the holder of the taxi licence, the operator and the driver are still accountable under the provisions that regulate the use of a taxi security camera system and images stored and downloaded from a taxi security camera system during this period. It also means that the holder of the taxi service licence does not commit an offence for operating the taxi without an approved taxi security camera system during this period.

Subsection 6 clarifies that 'relevant period' means the period starting on the day the approval is revoked, and ending on the day 6 months after the day the approval is revoked.

Section 88 provides that a taxi is not to be fitted with a taxi security camera system unless it is an approved taxi security camera system.

Section 89 inserts the power for the chief executive to approval signs for display in and on a taxi to inform persons that the taxi is fitted and with an (operating) approved taxi security camera system.

Subsection 2 provides that such and approvals must be published in the gazette.

Section 90 provides that a person must not tamper with an approved taxi security camera system.

Subsection 2 clarifies that in this section tamper includes an attempt to tamper.

Section 91 provides that a person must not sell an image recording made by an approved taxi security camera system fitted in a taxi, or otherwise use or disclose an image recording made by an approved taxi security camera system fitted in a taxi other than for an authorised purpose.

Subsection 2 provides that a person who downloads an image under section 91, must keep a record of details about the download such as information about the taxi, the date, time and location where the download took place, the persons name who conducted the download, why the download was conducted, and details about the person who asked for the download and to whom the image download is to be given.

Subsection 3 requires that a person who makes a record of details about a download to give the information to Queensland Transport within 1 working day after downloading the image recording.

Subsection 4 clarifies that 'give' in this section means sending by mail, facsimile or email and that 'VIN' has the meaning given by the Transport Operations (Road Use Management – Vehicle Registration) Regulation 1999.

Section 92 requires that a relevant person must take all security safeguards to protect against unauthorised use or disclosure, or misplacement of the image recording from an approved taxi security camera system.

Subsection 2 clarifies that a relevant person includes the holder of the taxi service licence, operator, driver, or person who uses the image recording for an authorised purpose.

Section 93 states that this section applies if the operator of a taxi service or if the operator is a corporation, an executive officer of the corporation,

downloads an image recording from an approved taxi security camera system.

Subsection 2 provides that images downloaded by an operator or executive officer of a taxi service must be deleted or otherwise destroyed not less than 30 days after the download has been conducted, but no longer than 35 days after the download has been conducted.

Division 5 Taxi subsidy scheme

Section 94 sets out the defined terms for the Taxi Subsidy Scheme.

The taxi subsidy scheme is defined as a scheme, administered by the chief executive, under which the State pays part of taxi fares for approved relevant persons by providing a benefit to each approved relevant person in relation to the cost of taxi travel, without providing amounts of money to the person.

This section details the eligibility criteria for membership to the taxi subsidy scheme based on a person's medical condition by defining a "relevant person" for the scheme.

Section 95 provides that a person may apply, in the approved form, to the chief executive for membership of the taxi subsidy scheme as a relevant person.

Subsection 3 requires the chief executive to consider the application and decide to either approve the application, or to refuse the application.

Subsection 4 allows the chief executive, by giving a regulation notice to a person, to refuse the application if –

- the chief executive is not satisfied the person meets the eligibility criteria for the scheme; or
- the person has been convicted of an offence under section 149(3) of the Act in regard to intentionally or recklessly obtaining, or helping someone else obtain, a financial benefit under the taxi subsidy scheme to which the person is not entitled.

Providing a regulation notice to the affected person ensures the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Section 96 allows the chief executive, under subsection 1, to cancel a person's approval as a relevant person, if –

- the chief executive is no longer satisfied the person is a relevant person that meets the eligibility criteria for the scheme; or
- the person has been convicted of an offence under section 149(3) of the Act in regard to intentionally or recklessly obtaining, or helping someone else obtain, a financial benefit under the taxi subsidy scheme to which the person is not entitled.

Subsection 2 requires the chief executive, before cancelling the approval, to give the approved relevant person a written notice about the proposed cancellation. The written notice must –

- state the proposed cancellation action is being considered by the chief executive and the grounds for the cancellation; and
- outline the facts and circumstances forming the basis for the grounds; and
- invite the person to show, within a stated time of at least 28 days, why the approval should not be cancelled.

Subsection 3 provides that if, after considering all written representations made within the stated time, the chief executive –

- is still not satisfied the person is a relevant person as mentioned in subsection 1(a), or
- is satisfied the person has been convicted of an offence mentioned in subsection 1(b),
- the chief executive may, by giving a regulation notice to the person, cancel the approval.

The regulation notice ensures the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 4 requires the approved relevant person to return the person's membership card of the taxi subsidy scheme and any unused taxi vouchers given under the taxi subsidy scheme, to the chief executive within 14 days after the regulation notice is given to the person.

Subsection 5 provides that the cancellation of a person's approval for membership of the taxi subsidy scheme takes effect from the date stated in

the notice even if the person does not return the membership card and any unused taxi vouchers to the chief executive.

Part 7 – Limousine services

Division 1 Preliminary

Purpose of Part 7

Section 97 provides that the purpose of the part is to provide for matters in relation to limousine service licences as required by, or otherwise for, chapter 8 of the Act.

Act, s 81 The purpose of limousine service licences is to ensure that the communities served under the licences receive luxury quality, and unscheduled public passenger services.

Division 2 Limousine service licences

Section 98 provides that a holder of a limousine service licence for a limousine service for an area may transfer or lease a limousine service licence, or enter into other operating arrangements about the licence, with another person who is accredited to provide the service.

Subsection 2 requires the holder of a limousine service licence to give the chief executive prior written notice about the transfer or lease of a limousine service licence before the transfer or leases takes effect.

Subsection 3 requires the holder of a limousine service licence to give the chief executive prior written notice about the end of a lease of a licence before the lease ends.

Subsection 4 provides that the holder of a limousine service licence may surrender the licence by giving written notice to the chief executive of the surrender. The surrender of the licence takes effect from the day the notice is received by the chief executive or a later day stated in the written notice.

Section 99 provides that the chief executive may amend the conditions of a limousine service licence if the amendment will result in a higher quality of service or will better meet the needs of users.

Subsection 2 allows the chief executive to suspend or cancel a person's limousine service licence if –

- the person has been convicted of a disqualifying offence; or
- the person contravenes a condition of the licence; or
- the licence fees are unpaid.

Section 100 sets out the process to be followed if the chief executive considers a ground exists to amend, suspend or cancel a person's limousine service licence under section 99.

The procedure ensures the person is afforded their natural justice rights by providing a right of response on the proposed action to be taken and a right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 2 requires that the chief executive must, before taking the proposed action, give the person a written notice about the proposed action to amend the conditions of the limousine service licence, or to suspend or cancel the limousine service licence. The written notice must –

- state the proposed action and the grounds for the proposed action; and
- outline the facts and circumstances forming the basis for the grounds; and
- if the proposed action is the amendment of the conditions of the service licence – state the proposed amendment; and
- if the proposed action is the suspension of the service licence – state the proposed suspension period; and
- invite the person to show, within a stated time of at least 28 days, why the proposed action should be taken.

Subsection 3 provides that if, after considering all written representations made within the stated time, the chief executive is satisfied a ground exists to take the proposed action, a regulation notice must be given to the holder of the limousine service licence stating the action to be taken by the chief executive to amend the conditions of the service licence, or to suspend or cancel the service licence.

The chief executive may decide to take the proposed action or to take an alternative action having regard to the representations made about the proposed action. This includes –

- if the proposed action was to amend the conditions of the limousine service licence – to either amend the service licence as stated in the regulation notice or to amend it in another way having regard to the representations; or
- if the proposed action was to suspend the limousine service licence – to suspend the service licence for no longer than the period state in the regulation notice, or to amend the conditions of the service licence having regard to the representations; or
- if the proposed action was to cancel the limousine service licence – to cancel the service licence, or to suspend the service licence for a period, or to amend the conditions of the service licence having regard to the representations.

Section 101 provides that the chief executive may immediately suspend a person's limousine service licence, by giving a regulation notice to the person, if the chief executive considers it necessary in the public interest.

For example, if the person has behaved in a way the chief executive considers is damaging to the reputation of public passenger transport.

The Act expressly provides, under section 91(3), that a regulation may be made to authorise the chief executive to immediately suspend a person's limousine service licence in the public interest.

This provision enables the chief executive to immediately respond to any arising matters or offences which may rule a person as being unsuitable to participate in the passenger transport industry.

The provision requires the issue of a regulation notice to the person to ensure the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their review and appeal rights.

This procedure ensures the person is afforded their natural justice rights by providing a right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 2 specifies that the immediate suspension of a person's limousine service licence has effect until the earlier of either the chief executive giving the person a regulation notice under section 100(3) of the regulation to amend the conditions of the service licence, or to suspend or

cancel the service licence, or the end of 56 days after the regulation notice under this section is given to the person.

Section 102 applies if a person's limousine service licence has been immediately suspended under section 101, and the chief executive also proposes to take further action to amend the conditions of the service licence, or to suspend or cancel the limousine service licence under section 100.

Subsection 2 requires that, if the chief executive is proposing further action against the person's limousine service licence, the notice of immediate suspension given to the person must include additional information on the proposed further action.

Subsection 3 requires that the procedure outlined in section 100(3) applies to the proposed action as if the regulation notice about the immediate suspension of the limousine service licence were a notice given under section 100(2).

Section 103 requires a person to return their limousine service licence to the chief executive if the person has been given a regulation notice cancelling, suspending (immediately suspending) or amending the conditions of the service licence.

Subsection 2 requires the person to return the limousine service licence to the chief executive within 14 days after being given the regulation notice.

Subsection 3 provides that the amendment, cancellation, immediate suspension or suspension of the limousine service licence takes effect from the date stated in the notice even if the person does not return the service licence to the chief executive.

Section 104 allows that a person's limousine service licence may also be amended by the chief executive, by giving a written notice to the person, if-

- the amendment is for a formal or clerical reason, or
- the amendment does not adversely affect the person's interests, or
- the person asks for the amendment to the accreditation.

Division 3 Operation of limousine services

Section 105 specifies that a luxury motor vehicle is –

- a motor vehicle mentioned in schedule 4 of the regulation that is not more than the vehicle's maximum age limit specified in the schedule; or
- a motor vehicle that is at least 40 years old that is registered and safe.

Luxury motor vehicles are used to provide services under a limousine service licence.

Section 106 provides that it is an offence to advertise a limousine service unless the service is provided by the operator of a limousine service licence.

Section 107 stipulates that the chief executive must decide the price at which a limousine service licence for a limousine service area is issued.

Subsection 2 requires that the price of the limousine service licence must be reasonable taking into account the market price of the sale or transfer of service licences in the limousine service area within the last 6 months.

If there have not been any sales or transfers in the service area during the 6 month period, the most recent sale or transfer price for a licence service licence will be taken into consideration.

Section 108 sets out matters about the hiring of a limousine.

Subsection 1 prohibits a person from plying or standing a limousine for hire at a place unless it is at the limousine owner's premises, or a limousine standing area or limousine rank.

A limousine rank is a place approved by the chief executive as a place where limousines may stand for hire to set destinations or areas for set fares. For example, an approved limousine rank allows walk-up passengers to hire an available limousine standing at the rank to travel to a set destination or area for a set fare.

A limousine standing area is a place approved by the chief executive as a place where limousines may stand while waiting to attend for a booking made earlier. For example, an approved limousine standing area at a major hotel in a tourist area allows available limousines to provide a prompt response to an earlier booking made through a concierge or reception at the hotel.

Subsection 2 prohibits a limousine driver from hiring the vehicle unless –

- an earlier booking has been made for the vehicle and the prospective hirer has agreed to the amount that will be charged for the hiring; or
- the vehicle is hired at a limousine rank.

Subsection 3 requires that a limousine driver who is at a limousine rank must not provide, or offer to provide, a service to a destination or area unless the destination or area is displayed on a notice approved by the chief executive.

The limousine driver must not charge a fare for a service to a destination or area displayed on the approved notice that is different to fare for the destination or area displayed on the notice.

Subsection 4 requires that if an approved notice is not displayed at a limousine rank, the driver of the limousine at the rank must –

- carry a copy of the approved notice for the limousine rank; and
- show the copy of the approved notice to a prospective hirer on request; and
- ensure that prospective hirer is informed that set fares apply or that a sign stating that set fares apply is placed in a position in the limousine where it is likely to be seen by the prospective hirer.

Subsection 5 requires a limousine driver at a limousine rank to make the limousine available for immediate hire. The driver must not refuse a hiring to a destination or area displayed on the approved notice.

Subsection 6 prohibits a limousine driver from demanding a fare that is more than the agreed amount or set fare.

Subsection 7 provides that if a limousine driver believes that they will not be able to obtain the fare at the destination, the driver may require the hirer to pay the agreed amount or set fare for the hiring as a deposit, before starting the journey.

Subsection 8 sets out the defined terms for this section.

Division 4 Substitute Limousines

Purpose of Division 4

Section 109 provides that the purpose of the division is to allow the holder of a limousine service licence to use a vehicle that is not a licensed limousine in substitution of a licensed limousine under specified circumstances.

Section 110 sets out the definitions for this division which are required to provide clarity in discussing the operation of substitute limousines.

Section 111 provides that a limousine operator may apply to the chief executive for an authority to provide substitute limousines (a "substitute limousine authority").

A substitute limousine authority may be issued to a "limousine operator" who is a person who is the holder of a limousine service licence, or the lessor of a limousine service licence.

For limousine services, the limousine operator must apply to the chief executive for each use of a substitute limousine for a specific period of time.

Subsection 2 provides that if the circumstances requiring the use of a substitute limousine happened outside of the department's normal business hours and the limousine operator used a substitute limousine, the application for the substitute limousine authority may be made in relation to a period, as stated in the application (but not more than 3 days) before the limousine operator made the application.

For example, limousine services are typically in high demand during the weekend. If a substitute limousine is required to be used on a Saturday afternoon because the licensed limousine has been involved in a major accident, the limousine operator may use a substitute limousine to ensure that the prearranged limousine service, such as a wedding service, can be provided. The limousine operator must apply to the chief executive for the use of the substitute limousine on the department's next business day.

Section 112 provides that the chief executive must consider a limousine operator's application for a substitute limousine authority and decide to grant the authority, with or without conditions; or to refuse to grant the authority.

Subsection 2 provides that if the chief executive refuses to grant a substitute limousine authority, or imposes a condition on the grant of a substitute limousine authority, the chief executive must give a regulation notice about the decision to the limousine operator.

Providing a regulation notice to the limousine operator ensures the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 3 provides that if the application included a period as stated in section 111(2), the substitute limousine authority may be given in relation to a period that was not more than 3 days before the application was given to the chief executive.

Section 113 specifies that a limousine operator may only use a substitute limousine if a licensed limousine used to provide a limousine service can not be used because of a major mechanical failure or a major accident.

The use of substitute limousines will ensure that limousine services can continue to be provided to the community without disruption if a limousine is unable to continue to operate under the specified circumstances.

Section 114 requires a limousine operator to comply with the conditions of the substitute limousine authority.

Section 115 allows the chief executive to cancel a substitute limousine authority if the chief executive is satisfied the limousine operator contravened or is contravening a condition of the authority.

Subsection 2 provides that before cancelling the authority, the chief executive must give the limousine operator a written notice about the proposed cancellation. The written notice must –

- state the proposed cancellation action is being considered by the chief executive and the grounds for the cancellation; and
- outline the facts and circumstances forming the basis for the grounds; and
- invite the limousine operator to show, within a stated time of at least 28 days, why the authority should not be cancelled.

Subsection 3 provides that if, after considering all written representations made within the stated time, the chief executive is satisfied the limousine operator contravened or is contravening a condition of the authority, the

chief executive may, by giving a regulation notice to the limousine operator, cancel the authority.

Requiring a regulation notice to be given the limousine operator ensures the operator is notified in writing of the decision, setting out the reasons for the decision and advising the operator of their right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 4 requires the limousine operator to return the substitute limousine authority to the chief executive within 14 days after the regulation notice is given to the operator.

Subsection 5 provides that the cancellation of the substitute limousine authority takes effect from the date stated in the notice even if the operator does not return the authority to the chief executive.

Section 116 provides that a limousine operator must not use, or allow the use of, a substitute limousine unless the vehicle –

- is stated in the substitute limousine authority as a vehicle that may be used as a substitute limousine or the circumstances in section 113 happen outside the department's normal business hours and the limousine operator uses the vehicle only until it is normal business hours; and
- complies with the conditions of limousine service licence under which the substitute limousine is to be operated (for example, the substitute limousine may only be operated in the same service area as the licensed limousine is authorised for); and
- is a luxury motor vehicle.

Subsection 2 provides that a limousine operator, when using a substitute limousine, is exempt from complying with a condition of the limousine service licence under section 87(2)(d)(ii) of the Act requiring the limousine operator to display a registration plate on the vehicle distinguishing it as a limousine.

Section 117 specifies the written records a limousine operator is required to keep about the use of a substitute limousine instead of a licensed limousine.

Subsection 2 requires the limousine operator to keep, or arrange for the keeping of, specified information in the substitute limousine when it is being used instead of a licensed limousine.

This information is required so that authorised officers of the department are able to confirm the substitute vehicle is being used in an authorised

manner and the services being provided to the community are done so in a safe and lawful manner. This is particularly important for on-road compliance activities.

Part 8 – Obligation of operators

Section 118 requires an operator of public passenger vehicle mentioned in schedule 5 to ensure the vehicle is fitted with equipment specified in the schedule.

The equipment requirements for taxis include that the vehicle must –

- be constructed, or have a safety partition or some other equipment fitted, to prevent luggage or other goods being carried in the luggage compartment of the vehicle from entering the passenger compartment; and
- be constructed or have equipment fitted to secure the luggage, if luggage is carried in the passenger compartment; and
- be constructed so passengers have control over the opening and shutting of the vehicle's doors independently of the driver; and
- be fitted with a green distress light, a hail light and a child restraint anchorage bolt.

However, these requirements do not apply to an exempted taxi or a luxury motor vehicle that is a taxi.

Off-road passenger vehicles operating tourist services are required to ensure the vehicle is fitted with –

- a fire extinguisher that complies with the Australian Standards for fire extinguishers; and
- a device to prevent a damaged tailshaft from striking the ground.

In addition, if the vehicle is being used to provide a tour service of more than 1 day's duration, the vehicle must also be fitted with a winch, a first aid kit, and a Royal Flying Doctor radio or telephone that operates in conjunction with a satellite.

The vehicle requirements in schedule 5 are in addition to other legislative requirements about the type, age and use of vehicles and safety matters relating to registration, insurance and vehicle inspections.

Section 119 requires an operator of a public passenger vehicle to ensure that any advertising or other marking on vehicles driven on the road does not cause danger to a person or conceal or obliterate, or make difficult to read, any information required under the Act to be placed on the vehicle.

Section 120 requires an operator of a public passenger service to display their operator accreditation number on each vehicle used to provide the service, including a vehicle borrowed, leased or hired from someone else.

The accreditation must be displayed in the way set out in schedule 6. The positioning of this information may vary depending on the type of vehicle being used to provide the service - for example, a bus or a motorcycle. The display of the accreditation in a consistent manner on each vehicle type assists with the identification of operators, especially for on-road compliance activities by the chief executive.

Subsection 2 requires an operator of a public passenger service for which operator accreditation is required to remove accreditation evidence from a vehicle used to provide the service if –

- the operator's accreditation is cancelled; or
- the operator's accreditation is expired and the vehicle is no longer to be used to provide a public passenger service for which operator accreditation is required; or
- the vehicle is sold or otherwise disposed of.

Requiring operators to remove evidence of their accreditation when it is no longer valid or the vehicle has been sold makes the identification of appropriately accredited operators easier for the public and increases passenger confidence in using public passenger services.

Subsection 3 prohibits a person from operating a public passenger vehicle displaying accreditation evidence if the person does not hold operator accreditation, or only holds provisional operator accreditation and the accreditation evidence relates to operator accreditation other than provisional accreditation.

Subsection 4 provides that it is a reasonable excuse, for subsections 1 and 3, for an accredited person not to comply only if –

- the vehicle operated by the accredited person is leased from, or usually operated by, another person who holds operator accreditation; and
- the accredited person operates the vehicle because of an exceptional circumstance (for example, the use of a replacement bus for a vehicle break-down); and
- the accredited person does not operate the vehicle for a period of more than 5 days, whether or not consecutively, within any period of 3 months.

This requirement safeguards the integrity of accreditation evidence and promotes operator accreditation by only allowing appropriately accredited operators to legally display this information.

Section 121 provides that the chief executive may, by written notice, direct an operator to present a public passenger vehicle for inspection and testing at a specified time and place. Subsection 2 provides that is an offence for an operator not to comply with the request.

Section 122 requires an operator of a public passenger vehicle to ensure that vehicle is in a safe condition when being used to provide a public passenger service.

Section 123 requires an operator of a public passenger service to obtain the authority of the owner, controller or operator of specified property before a service is provided to those properties.

Section 124 requires an operator of a public passenger service for which operator accreditation is required to keep written records about each use of a public passenger vehicle providing a service. The information required to be kept is –

- the vehicle used and the vehicle registration number;
- the date and times the vehicle is used;
- the name of each driver who used the vehicle; and
- the driver's driver authorisation number (other than for a driver who has restricted driver authorisation).

Section 125 requires a prescribed operator who grants a restricted driver authorisation to keep written records about the issue, amendment or automatic cancellation of a restricted driver authorisation.

The records must include details of –

- the name of the person grant restricted driver authorisation;
- the date the restricted driver authorisation was granted and the date it will expire;
- any amendment of the restricted driver authorisation and the date of amendment;
- any automatic cancellation of a restricted driver authorisation, the reasons for the automatic cancellation and details about a notice given about the automatic cancellation;
- the driver's licence number and the State or country of issue of the licence of the holder of the restricted driver authorisation.

Section 126 requires a prescribed operator who grants a restricted driver authorisation to notify the chief executive about the grant, amendment or automatic cancellation of a restricted driver authorisation. The notification must be provided to the chief executive within 3 working days after the grant, amendment or automatic cancellation of the restricted driver authorisation.

Part 9 – Rights and obligations of passengers and drivers

Section 127 provides that this part does not apply to a public passenger vehicle that is rolling stock under the Transport Infrastructure Act 1994.

Passenger offences relating to rolling stock (that is, trains) are dealt with under the Transport Infrastructure (Rail Regulation) 1996. The penalty provisions under this regulation for offences about smoking, the consumption of food and beverages and the carriage of animals on public passenger vehicles have been aligned with the similar provisions under the Transport Infrastructure (Rail Regulation) 1996.

This means that an offence of this nature will incur the same penalty regardless of whether a person commits the offence on a train, bus, ferry, taxi or other public passenger service.

Section 128 prohibits smoking on public passenger vehicles. Subsection 2 prohibits the consumption of food and beverages on all public passenger vehicles without the permission of the operator or driver of the vehicle.

Section 129 prohibits a person from taking an animal, other than an assistance animal, on a public passenger vehicle without the permission of the operator or driver of the vehicle.

Subsection 2 requires a driver of a public passenger vehicle to allow a person who has a disability to take an assistance animal on the vehicle.

Subsection 3 defines that an "assistance animal" is an animal that is accompanying a person with a disability and is specifically trained to give help to the person in relation to the disability.

Section 130 prohibits a driver of a public passenger vehicle from driving the vehicle unless the person carries the document evidencing their driver authorisation, and evidence of any condition imposed on their authorisation by the chief executive.

Section 131 requires drivers of public passenger vehicles to be neatly dressed while driving the vehicle.

Section 132 requires drivers to reasonably help people to board or leave a vehicle, or to help with luggage, if asked to do so by the passenger.

Section 133 requires the driver of a motorcycle, motor tricycle or motor cycle with a sidecar to ensure that a person is in an appropriate condition to ride as a passenger so that the safety of the driver and passenger and any other passengers is not unreasonably put at risk.

Part 10 – Review of, and appeals against, decisions not provided for under Act, ch 10

Section 134 provides that persons affected by decisions specified in schedule 7 of the regulation can apply to the chief executive for a review of the decision.

Schedule 2 of the Act provides that particular decisions by the chief executive are reviewable decisions. The decisions mentioned in schedule 2 of the Act do not include the decisions stated in schedule 7 of the regulation.

Subsection 2 states that the person is entitled to receive a statement of reasons for the original decision.

Subsection 3 provides that the Transport Planning and Coordination Act 1994, part 5, division 2 applies to the review, the procedure to be applied for the review, and that the person may apply to the relevant court to stay the original decision.

Subsection 4 provides that after the chief executive confirms or amends the original decision or substitutes another decision, the person may appeal the confirmed, amended or substituted decision to the relevant court stated in schedule 7.

Subsection 5 provides that the person may appeal the reviewed decision made by the chief executive in a relevant court. The Transport Planning and Coordination Act 1994 also applies to the appeal, the procedure to be applied for the appeal and the way it is to be disposed of, and that the person may apply to the relevant court to stay the reviewed decision.

Part 11 – General

Section 135 specifies that a disqualifying offence can include an offence against the regulation, or the repealed Transport Operations (Passenger Transport) Regulation 1994, for which the maximum penalty is or was at least 20 penalty units.

A transitional provision, under section 156, provides that a disqualifying offence is also an offence against the Act, whether the act relating to the offence was or is committed before or after the commencement of the regulation.

It is proposed to amend the Act at the next opportunity to provide that a disqualifying offence is also an offence against the Act.

Section 136 identifies services that are excluded from the meaning of a "public passenger service" and consequently from the requirements of the passenger transport legislation.

Subsection 2 also provides that a vehicle break down service, including a towing service, that provides the driver or passengers of a broken down vehicle with transport, is excluded from the requirements of the Act.

This exclusion applies to breakdown services like the RACQ and allows these services to transport the driver or passengers of the broken down vehicle if there is no reasonable alternative transport (such as a taxi), or the

health or safety of the driver or passengers of the broken down vehicle is placed in unreasonable danger because of the break down.

Section 137 provides that schedule 8 of the regulation identifies the vehicles permitted to be used as public passenger vehicles for the different categories of public passenger services.

Subsection 2 prohibits a person from operating a public passenger service mentioned in schedule 8, column 1 unless the person uses a vehicle of a type set out opposite the service in column 2.

Subsection 3 provides that this section does not apply to limousine service.

The conditions of a limousine service licence, under section 87(2)(b) of the Act, require the holder of a limousine service licence to use a luxury motor vehicle to provide the limousine service. Any action against an operator for providing a limousine service not using a luxury motor vehicle would be taken under the Act.

Section 138 provides that the chief executive may exclude a child from free travel arrangements made under section 144 of the Act for the transport of pupils to and from schools or other educational establishments, if their parent or guardian has been convicted of an offence against section 149 of the Act for an offence of dishonesty.

Subsection 2 requires the chief executive to, before taking the action to exclude the child from free travel arrangements, give the parent or guardian a written notice –

- stating the proposed action and the grounds for the proposed action; and
- outlining the facts and circumstances forming the basis for the grounds; and
- inviting the person to show, within a stated time of at least 28 days, why the proposed action should be taken.

The procedure ensures the parent or guardian is afforded their natural justice rights by providing a right of response on the proposed action to be taken and a right to seek a review, and if necessary, an appeal or stay of the decision made by the chief executive.

Subsection 3 provides that if, after considering all written representations made within the stated time, the chief executive is satisfied that the child's parent or guardian has been convicted of an offence against s149(3) of the

Act in relation to transport arrangements made under section 144 of the Act, the chief executive may take the action under subsection 4 to exclude the child from free travel under the arrangements.

Subsection 4 provides that if the chief executive may, by giving a regulation notice to the parent or guardian, exclude the child from free travel arrangements made under section 144 of the Act.

Giving a regulation notice to the child's parent or guardian ensures the person is notified in writing of the decision, setting out the reasons for the decision and advising the person of their review and appeal rights.

Section 139 allows the chief executive to approve a code of conduct for students travelling on public passenger vehicles. The code of conduct must be notified by gazettal.

A transitional provision, under section 155, provides that a code of conduct approved under section 62A of the repealed regulation and in force immediately before the commencement of the regulation is preserved under this regulation.

Section 140 provides that the chief executive may refuse to award a school service contract unless a local conveyance committee has been established by the parents and guardians of eligible school children who will use the service to be provided under the contract, and the chief executive is satisfied the committee is operating in accordance with local conveyance committee guidelines.

Subsection 2 requires that in awarding a school service contract the chief executive must ensure the views of any local conveyance committee are taken into account.

Subsection 3 provides that a local conveyance committee has an ongoing role in monitoring the performance of the holders of school service contracts and assisting the contract holders in the development of timetables and routes for the services. Local conveyance committees also have a role in assisting school principals and school contract holders in maintaining the discipline of school students.

Subsection 4 provides the defined terms for this section.

Section 141 prohibits a person from soliciting or touting for passengers for the hiring of a public passenger vehicle. Subsection 2 clarifies that attempting to arrange a multiple hiring of a taxi at a taxi rank is not soliciting or touting for passengers or a hiring.

Section 142 requires a person to maintain the records specified under the Act for a period of 5 years and to make the records available on request from the chief executive.

Section 143 requires a person who holds operator accreditation, driver authorisation, a service contract, a taxi service licence or a limousine service licence to notify the chief executive in writing of a change of name or address, within 10 business days after the change.

Section 144 enables employees of Queensland Rail to be appointed as authorised persons on the Brisbane Airport Rail Link service.

Subsection 2 stipulates that the railway operator for the Brisbane Airport Rail Link may charge a reasonable fare for the use of any public passenger service the operator provides.

A definition of the Brisbane Airport Rail Link is provided in subsection 3.

Section 145 provides for the setting, payment, waiver and refund of fees for the issue or renewal of the authorities issued under the Act. The annual fee payable is specified in schedule 9 of the regulation.

Subsection 2 allows the payment of a fee for an annual authority to be paid in either a lump sum before the authority is issued or renewed, or by some other arrangement with the chief executive (for example, yearly).

Subsection 3 allows the chief executive to waive the payment of a fee for a person, or to refund the whole, or a part, of a fee paid by a person.

Subsection 4 provides that if a person's cheque for payment of a fee for an authority is dishonoured, the authority is void from the day of issue, or suspended from the renewal date until the payment is made, or suspended from the date the payment was due under an arrangement in subsection 2(b) until the payment is made.

Subsection 5 provides that if the State incurs an expense because a person's cheque is dishonoured, the person must reimburse the State for the expense and the amount of the expense may be recovered as a debt payable by the person to the State.

Section 146 allows the chief executive to approve forms for use under the Regulation. Approved forms must be notified by gazette notice in accordance with the requirements of the Statutory Instruments Act 1992, Part 8.

It is proposed to amend the Act at the next opportunity to relocate this provision under the Act.

Part 12 – Transitional provisions

The part makes provisions for the arrangements that are necessary to provide for the continuing regulation and management of the public passenger transport industry in the transition from the repealed 1994 regulation.

Section 147 defines the terms for this part to provide clarity about the transitional provisions.

Section 148 provides that references in notices issued between 20 May 2004 and 19 November 2004 about disqualifying offences are taken to be references to driver disqualifying offences (consistent with amendments made in 2004 about these offences). This transitional provision is necessary because there are matters about decisions on driver disqualifying offences within that period that are yet to be finalised.

Section 149 provides a transitional power for matters or actions or things done under the repealed regulation to continue to have effect as if it had been done under this regulation.

Section 150 applies to a relevant application and a relevant applicant made under the repealed regulation for which a decision about the application had not been made under the repealed regulation before the commencement of the regulation.

Subsection 2 provides that the repealed regulation continues to have effect for the purposes of making a decision about the relevant application and the relevant person.

Subsection 3 provides that, for the purposes of subsection 2, if the chief executive had delegated his or her power under the repealed regulation to decide an application that is a relevant application and the delegation was in force immediately before the commencement, the delegation continues to have effect in relation to making a decision about the relevant application.

Subsection 4 provides that a decision made under the repealed regulation to grant operator accreditation, driver authorisation, a taxi service licence, a limousine service licence or other appropriate form of approval, has effect under the repealed regulation.

Subsection 5 provides that if the decision, by application of the repealed regulation, involves a decision to refuse a relevant application made under

the repealed regulation, the relevant applicant must be given the decision, a statement of reason for the decision and an information notice.

Subsection 6 provides that the regulation (not the repealed regulation) applies to the issue of operator accreditation, driver authorisation, a taxi service licence, a limousine service licence or other appropriate form of approval or information notice.

Subsection 7 provides for the repealed regulation to apply to the review and appeal of a decision made under subsection 5.

Section 151 provides that if a person made an application under the Transport Planning and Coordination Act 1994 for a review of a original decision made under the repealed regulation, the repealed regulation applies to the finalisation of the matter, including –

- the application for review, the review and any appeal relating to the review;
- the reviewed decision for the purposes of any appeal relating to the reviewed decision;
- an appeal against a reviewed decision.

Section 152 provides for a taxi service licence holders with a taxi not yet fitted with an approved taxi security camera system in a relevant taxi service area that requires the licence holder to have a taxi fitted with an approved taxi security camera system on commencement of this regulation.

Subsection 2 provides that after commencement the chief executive may by written notice require the holder of a taxi service licence to take the taxi to a nominated place at a certain time to be fitted with an approved taxi security camera system.

Subsection 3 requires that the day stated in the notice must not be less than 14 days after the day the notice is given to the holder of a taxi service licence.

Subsection 4 requires that the holder of a taxi service licence state of must comply with notice unless they have a reasonable excuse.

Subsection 5 clarifies that a holder of a taxi service licence, the operator or the driver do not commit an offence for making the taxi available, or driving the taxi without an approved taxi security camera system until such time as the taxi is required to be taken to be fitted with an approved taxi security camera system on a date as stated in the written notice.

Subsection 6 clarifies specific terms such as 'approved taxi security camera system' and 'fully operational'. The subsection also clarifies that 'relevant period' for a taxi to be the period starting on the commencement and ending on the day stated in the notice as the day on which the holder of the taxi service licence for the taxi must take the taxi to a stated place to be fitted with an approved taxi security camera system. It also clarifies 'relevant taxi service area' and 'taxi security camera system'.

Section 153 provides that for a person who applied for membership to the taxi subsidy scheme under section 33 of the repealed regulation immediately before the commencement of the regulation, and the matter had not been finally dealt with before the commencement, the application is to be dealt with under the repealed regulation.

Subsection 2 provides that a person who was approved by the chief executive as a member of the taxi subsidy scheme immediately before the commencement of the regulation is taken to be an approved relevant person for the purposes of the taxi subsidy scheme under this regulation.

Subsection 3 provides that if –

- immediately before the commencement of the regulation, the chief executive began an action in relation to the person that may result in section 33 of the repealed regulation not applying to the person or the exclusion of the person from the scheme; and
- the action begun by the chief executive was not completed at the commencement of the regulation; and
- the chief executive wishes to continue with the action after the commencement of the regulation;
- the chief executive must continue the action under section 96 having regard to the actions previously taken and the requirements of section 96.

Section 154 provides a transitional power to enable guidelines made under section 62B of the repealed regulation to remain in force for 1 year after the commencement of this regulation.

Subsection 2 provides that the chief executive may amend or repeal the section 62B guidelines in the same way that guidelines could be amended or repealed under section 62B of the repealed regulation.

Section 155 provides that a code of conduct approved by the chief executive under section 62A of the repealed regulation and in force immediately before the commencement is preserved under section 139 of

this regulation until the chief executive approves a code of conduct under section 139, by gazettal.

A new code of conduct for school students will be introduced for the commencement of the 2006 school year.

Subsection 3 provides under the preserved code of conduct made under section 62A of the repealed regulation, a reference to "school children" is taken to be a reference to "school students" if the context permits.

This section expires 6 months after the commencement of the regulation.

Section 156 states that in addition to section 135 of the regulation, an offence against the Act, whether the act relating to the offence was or is committed before or after the commencement of this regulation, is also a "disqualifying offence".

It is proposed to amend the Act at the next opportunity to provide that a disqualifying offence is also an offence against the Act.

This section expires 1 year after the commencement.

Section 157 provides that a reference in a document to the repealed regulation may, if the context permits, be taken to include a reference to this regulation.

Section 158 provides that this part does not limit the operations of the Acts Interpretation Act 1954, section 20, except to the extent that an intention contrary to that section is expressed.

Part 13 – Repeal and other amendments

Section 159 repeals the Transport Operations (Passenger Transport) Regulation 1994 (No. 379).

Section 160 provides that references to the repealed regulation in the Transport Operations (Road Use Management – Road Rules) Regulation 1999, and the Transport Operations (Road Use Management – Vehicle Standards and Safety) Regulation 1999 are amended as specified in schedule 10.

Part 14 – Amendment of State Penalties Enforcement Regulation 2000

Section 161 provides that this part amends the State Penalties Enforcement Regulation 2000.

Section 162 amends the schedule 3 of the State Penalties Enforcement Regulation 2000 for the table of offences for the passenger transport regulation for which penalty infringement notices may be issued.

Schedules to Transport Operations (Passenger Transport) Regulation 2005

Schedule 1 Market entry restrictions

This schedule is made pursuant to section 45 of the regulation. The schedule identifies the areas or routes for which market entry restrictions may be imposed on the provision of particular public passenger services.

Section 36 of the Act specifies the criteria on which a market entry restriction can be made.

A declaration under section 42, 42A or 71 of the Act is required to be made to declare that the market entry restrictions apply to a type of public passenger service mentioned in column 1 of this schedule for a specific area or route listed opposite the service in column 2 from a fixed date stated in the declaration.

Schedule 2 Additional service contract areas or routes in Translink area

This schedule is made pursuant to section 51 of the regulation. The schedule identifies service contract area or routes that are part of the Translink area.

The areas and routes identified in this schedule are additional to those identified in schedule 2A of the Act.

Schedule 3 Relevant taxi service areas for approved taxi security camera systems

This schedule specifies the relevant taxi service areas for approved taxi security camera systems that are determined as 'relevant taxi service areas' under section 81 of this division.

Schedule 4 Luxury motor vehicles

This schedule lists motor vehicles that are “luxury motor vehicles”, which can be used to provide a limousine service or a taxi service.

For taxi services, a higher taxi fare may be charged for the specific booking of a luxury motor vehicle in accordance with the provisions of section 74A of the Act.

Schedule 5 Equipment for vehicles

This schedule prescribes equipment that must be fitted and carried by different types of public passenger vehicles.

These vehicle requirements are in addition to other legislation requirements about the type, age and use of vehicles and safety matters relating to registration, insurance and vehicle inspections.

Schedule 6 Accreditation evidence

This schedule details how an operator of a public passenger service must display their operator accreditation number on each vehicle used to provide the service, as required under section 120.

The positioning of the operator's accreditation number may vary depending on the type of vehicle being used to provide the service - for example, a bus or a motorcycle.

The display of the accreditation in a consistent manner on each vehicle type assists with the identification of operators, especially for on-road compliance activities by the chief executive.

Schedule 7 Review and appeals against decisions

This schedule specifies those decisions made by the chief executive under the regulation which are subject to review and appeal, as provided for under Part 10.

The Transport Planning and Coordination Act 1994, part 5, applies to a review, an appeal or an application for the stay of the original decision or reviewed decision.

Schedule 2 of the Act provides that particular decisions by the chief executive are reviewable decisions. The decisions mentioned in schedule 2 of the Act do not include the decisions stated in this schedule.

Schedule 8 Public passenger vehicles

This schedule prescribes the types of motor vehicles that may be used to provide specified public passenger services.

Schedule 9 Annual fees

This schedule prescribes the annual fees applicable to service contracts, taxi service licences, limousine service licences, operator accreditation and driver authorisation.

Schedule 10 Consequential amendments

This schedule details the consequential amendments to other legislation for references to the repealed regulation.

Schedule 11 Dictionary

This schedule specifies the definitions used in the regulation to provide clarity about the terms used in the provisions of the regulation.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Transport.

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