



Queensland

# Transport Operations (Passenger Transport) Amendment Regulation (No. 1) 2011

## Explanatory Notes for SL 2011 No. 143

made under the

*Transport Operations (Passenger Transport) Act 1994*

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## General outline

### Short title

*Transport Operations (Passenger Transport) Amendment Regulation (No. 1) 2011.*

### Authorising law

Section 35L of the *Transport Operations (Passenger Transport) Act 1994*.

### Policy objectives and the reasons for them

In the taxi industry, a bailment agreement is used as the basis of the business relationship between a taxi operator and taxi driver. It covers what consideration (payment) will be given by the driver to the operator for the right to bail their vehicle for a shift/period as well as any other entitlements or obligations created under the agreement. Bailment agreements usually take the form of an agreed percentage of takings or a set pay in where the taxi driver pays the owner a fixed amount regardless of takings.

Currently many agreements are verbal contracts and are not confirmed in writing. This makes it difficult for parties to provide evidence of the original agreement when seeking justice in circumstances of dispute. To address this, the *Transport and Other Legislation Amendment Act 2011* (Act No. 12 of 2011) amended the *Transport Operations (Passenger Transport) Act 1994* (the Passenger Transport Act) in April 2011 to require bailment agreements to be in writing, signed and to include information prescribed under a regulation. In recognition that taxi drivers new to the industry may not have the experience and knowledge required to understand if a set pay in arrangement is reasonable or the best option for them, the amendments to the Passenger Transport Act also restricted set pay in arrangements to drivers who have held Queensland driver authorisation for 12 months. The taxi bailment provisions commence on 1 September 2011.

The amendment to be made under the regulation stipulates the information that is to be included in the bailment agreement as required under the Passenger Transport Act. This includes the date the agreement was signed, the names and addresses of the parties, the operator accreditation and driver authorisation numbers, whether insurance provisions are in place for the driver and what the driver's contribution will be, as well as the details of the payment arrangement. Specifically, this includes whether payment will occur in the form of a percentage of takings through the taxi meter or a set pay in amount, what the percentage or the amount is, who is responsible for fuel, and if the responsibility is shared, the percentage or the amount to be shared.

These amendments are outlined in the *Queensland Taxi Strategic Plan 2010 - 2015* (the Strategic Plan) that was tabled in Parliament on 25 November 2010 following government approval.

### **Achievement of policy objectives**

The requirement for a compulsory written, signed bailment agreement, which must cover the terms under this amendment regulation will provide a crucial evidentiary tool in the event of a bailment arrangement being contested. It will also provide a formal mechanism that will increase transparency and accountability within the taxi industry with regard to the remuneration and working arrangements of taxi drivers and increase driver awareness of their commercial negotiations. These objectives deliver action 11.3 of the Strategic Plan.

### **Consistency with policy objectives of authorising law**

The amendment regulation is consistent with the objectives of chapter 4A of the Passenger Transport Act that requires bailment agreements to be signed and in writing and section 35L that enables a regulation to prescribe the minimum terms that must be included in the bailment agreement.

### **Benefits and costs of implementation**

The amendments are not anticipated to impose any significant cost to operators or drivers. The amendments specify what must be included in a bailment agreement and will provide written evidence to assist in the resolution of disputes between operators and drivers.

Administrative costs associated with enforcement of the provisions will be met from within existing budget allocations.

### **Consistency with fundamental legislative principles**

The amendments are consistent with fundamental legislative principles.

### **Consultation**

The Strategic Plan was developed in consultation with the Taxi Industry Advisory Committee consisting of representatives from industry, government and community groups. Consultation has taken place with other industry and community stakeholders as part of a two month public consultation process that occurred prior to the finalisation and subsequent approval of the Strategic Plan by government in November 2010.

During the development of the amendments to the Passenger Transport Act and this amendment regulation consultation has taken place with key government stakeholders including the Department of Premier and Cabinet, the Department of Justice and Attorney-General and Queensland Treasury.

Consultation has also taken place with key industry and other government stakeholders as part of ongoing communication forums chaired by the Department of Transport and Main Roads including the Taxi Industry Advisory Committee, the Taxi Strategic Planning Committee and the Taxi Industry Health and Safety Committee. Collectively, these committees include representatives from the Queensland Police Service, the

Department of Justice and Attorney-General, the Transport Workers' Union, the Taxi Council of Queensland, Queensland Taxi Advisors Incorporated, taxi booking companies, independent drivers and an independent operator. All stakeholders are supportive of the amendments.

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#### ENDNOTES

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

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