



Queensland

Transport Operations (Passenger Transport) Amendment Regulation (No. 2) 2011

Explanatory Notes for SL 2011 No. 187

made under the

Transport Operations (Passenger Transport) Act 1994

General outline

Short title

Transport Operations (Passenger Transport) Amendment Regulation (No. 2) 2011.

Authorising law

Section 155 of the *Transport Operations (Passenger Transport) Act 1994*

Policy objectives and the reasons for them

The Gold Coast Rapid Transit operator franchisee is accountable to the State for revenue and asset protection. The operator franchisee is required to meet key performance indicators related to revenue and asset protection and an element of their monthly contract payment is contingent on meeting those indicators.

The Gold Coast Rapid Transit operator franchisee will be the operator and/or manager of the Gold Coast light rail public passenger service for the purposes of the *Transport Operations (Passenger Transport) Act 1994*. The

objective of these amendments is to provide employees of the Gold Coast Rapid Transit operator franchisee with limited authorised person powers, thereby enabling revenue and asset protection activities on the network, including the issuing of penalty infringement notices for certain offences.

The amendments are also required to ensure the Gold Coast Rapid Transit light rail system is defined to outline the specific route in which these authorised persons will have powers.

Achievement of policy objectives

The regulation achieves the policy objectives by providing a legislative basis for the revenue and asset protection powers required by the operator franchisee. This legislation is essential in finalising financial expectations by tenderers for the Gold Coast Rapid Transit light rail system.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objectives of the *Transport Operations (Passenger Transport) Act 1994*. These objectives are summarised as follows:

- provide the best possible public passenger transport at reasonable cost to the community and government, keeping government regulation to a minimum.
- provide a system of public passenger transport in the State that is responsive to community needs; offers an attractive alternative to private transport in a way that reduces the overall environmental, economic and social costs of passenger transport; addresses the challenges of future growth; provides a high level of accountability; and provides public passenger services at a reasonable cost to the community and government.
- promote the personal safety of persons using public passenger transport.
- provide a reasonable level of community access and mobility in support of the government's social justice objectives.
- provide an adequate framework for coordinating the different forms of public passenger transport to form a comprehensive, integrated and efficient system.

Benefits and costs of implementation

The amendments ensure the Gold Coast Rapid Transit light rail system is a safe and efficient service for the community. These powers will enable the operator franchisee to play a proactive role in ensuring the best possible service is provided to the community. Given that the state will not be required to provide regular revenue and asset protection on the service, it is expected that this option will provide a value for money outcome through the operator franchisee.

The revenue risk is not entirely borne by the state and is shared by the operator franchisee. This is consistent with public private partnership principles including operational risk sharing.

Consistency with fundamental legislative principles

The amendment may breach the fundamental legislative principle regarding the appropriateness of delegation of administrative power. Specifically, this provision enables powers to be exercised by employees of a non-government body.

The appointment of employees of a non-government body is provided for in section 111(2) of the Transport Operations (Passenger Transport) Act 1994, which states that the chief executive may appoint a person prescribed under a regulation as an authorised person. Section 111A contains safeguards on the appointment of appropriate persons by requiring the chief executive to take into account before appointment whether the person has the necessary expertise or experience or has satisfactorily completed training approved by the chief executive. A further safeguard is provided by section 114 which allows for the powers exercised by authorised persons to be restricted by a regulation.

Accordingly, this amendment regulation addresses any possible breach of the fundamental legislative principle by limiting the authorised person's powers to certain offences and expressly excludes the use of reasonable force.

Consultation

Relevant Queensland government departments were consulted and are supportive of the amendments.

ENDNOTES

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

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