



Queensland

Transport Operations (Passenger Transport) Amendment Regulation (No. 1) 2012

Explanatory Notes for SL 2012 No. 160

made under the

Transport Operations (Passenger Transport) Act 1994

General outline

Short title

Transport Operations (Passenger Transport) Amendment Regulation (No. 1) 2012.

Authorising law

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

Policy objectives and the reasons for them

Preventing high-risk drivers from applying for driver authorisation

Drivers of public passenger vehicles are subject to higher driving standards than the general public. This is because they are responsible for the safety and security of public passengers. A person who has been convicted of a high-level drink driving offence or multiple drink driving offences is considered to be unsuitable to hold driver authorisation for a specified period after their disqualification period has ended. The amendments aim

to help ensure that the safety of public passengers is not put at risk by preventing high-risk drivers from applying for driver authorisation.

Public passenger vehicles fitted with a prescribed interlock

A prescribed interlock is configured to require that the driver provide a breath specimen periodically throughout a journey. This requirement, coupled with the imperative to provide a timely service, may encourage the driver to provide breath specimens while driving. Alternatively, if the driver stops the vehicle to provide the required breath specimen during the service, public perception about the quality, timeliness and safety of the service may be impacted. The purpose of the amendments is to help maintain public perception about the quality, timeliness and safety of public passenger services and ensure the safety of public passengers by prohibiting a vehicle fitted with a prescribed interlock from providing a public passenger service. The amendments will not prohibit the use of a vehicle fitted with an interlock voluntarily as these devices can be configured to only require a breath specimen on starting the vehicle.

Operator accreditation and driver authorisation exemption

Operator accreditation and driver authorisation requirements are necessary to ensure the safety and security of public passengers. However, there is not always an accredited operator or authorised driver in small regional communities that is either willing or able to provide a transport service to locally significant events such as rodeos or show days. The objective of the amendments is to remove the regulatory burden on operators providing free services to events of local significance.

Limousine licensing enhancements

The recommended retail price of a vehicle must meet the luxury car tax threshold to be classified as a luxury motor vehicle or special purpose limousine. As the luxury car tax threshold increases over time, the recommended retail price of a vehicle may not continue to meet this requirement. Vehicles that do not meet the luxury car tax threshold cannot re-enter the limousine licensing regime or transition from a limousine service licence to a special purpose limousine service licence, even if the vehicle has been previously assessed as meeting the threshold. This restriction creates an unnecessary barrier to entry for these vehicles. Through removing this restriction, the amendments will provide for a more flexible and efficient limousine licensing regime without compromising the safety of public passengers.

Achievement of policy objectives

The amendments will achieve the stated policy objectives by amending the *Transport Operations (Passenger Transport) Regulation 2005* to:

- prevent a person whose licence is subject to an interlock condition from applying for driver authorisation for two years after their disqualification period has ended;
- prohibit a nominated vehicle fitted with a prescribed interlock from being used to provide a public passenger service for which operator accreditation and driver authorisation are required;
- provide an exemption from the requirement to hold operator accreditation and driver authorisation for a free transport service to an event of local significance in a small-population local government area; and
- allow a vehicle to be classified as a luxury motor vehicle or special purpose limousine where the vehicle's recommended retail price has previously been assessed as meeting the luxury car tax threshold.

Consistency with policy objectives of authorising law

The amendments are consistent with the main objectives of the *Transport Operations (Passenger Transport) Act 1994*.

Inconsistency with policy objectives of other legislation

The amendments are not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

There are no additional costs in implementing the amendments.

The exemption from operator accreditation and driver authorisation will cut red tape for operators in small-population local government areas that provide a free transport service to an event of local significance. This will result in compliance cost savings for operators and may help support the local tourism industry in these communities.

The limousine licensing enhancements will result in significant cost savings for limousine operators as they will allow operators to maximise the commercial use of their luxury vehicles within the limousine licensing regime. These cost savings may also result in indirect savings for users of limousine services.

Consistency with fundamental legislative principles

The amendment that prevents a person who has been convicted of a high-level drink driving offence or multiple drink driving offences from applying for driver authorisation for a fixed period may impinge on fundamental legislative principles by adversely affecting the individual's rights and liberties. This change may impact on the livelihood of affected persons.

Driver authorisation is an authority that drivers of public passenger services must hold. The purpose of driver authorisation is stated in the *Transport Operations (Passenger Transport) Act 1994* to maximise public confidence in public passenger services in relation to the drivers of public passenger vehicles and ensure drivers are suitable persons having regard to the personal safety of passengers and the public.

In accordance with these objectives, it is necessary to have regard to the driving history of an applicant. This is to ensure that the safety of public passengers is not put at risk. A person who has been disqualified from driving after being convicted of a high-level drink driving offence or multiple drink driving offences is currently required to only drive a vehicle fitted with an alcohol interlock for a specified period on returning to the licensing system. At this time, the person is still considered to be a high-risk driver and unsuitable to drive a public passenger vehicle. The potential breach of fundamental legislative principles is outweighed by the overall benefits to the safety of public passengers.

Consultation

Relevant government departments have been consulted and support the amendments.

The Taxi Council of Queensland supports the proposal to prohibit a nominated vehicle fitted with a prescribed interlock from being used to provide a public passenger service.

Relevant stakeholders were consulted on the driver authorisation and operator accreditation exemptions including affected councils, relevant operators, industry associations and the Local Government Association of Queensland (LGAQ). The affected councils and the LGAQ support the introduction of the proposed exemption.

The Queensland Bus Industry Council opposes the introduction of the operator accreditation and driver authorisation exemption as they consider that this change may lower safety standards. However, the Department of Transport and Main Roads considers that the benefit of reducing red tape for these small communities outweighs any risk that the amendments will lower safety standards. Further, as the exemption applies only to services that occur infrequently throughout the year, there is a negligible risk to the community.

The Limousine Association of Queensland was consulted on the amendments to enhance the limousine licensing regime and supports the proposed approach.

ENDNOTES

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

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