

Transport Operations (Passenger Transport) and Another Regulation Amendment Regulation (No. 1) 2013

Explanatory notes for SL 2013 No. 269

made under the

State Penalties Enforcement Act 1999

Transport Operations (Passenger Transport) Act 1994

General Outline

Short title

Transport Operations (Passenger Transport) and Another Regulation Amendment Regulation (No. 1) 2013

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*

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

Policy objectives and the reasons for them

The main policy objectives of this regulation are to:

- enhance taxi driver and passenger safety by improving the taxi security camera program;
- reduce instances of overcharging of taxi fares and ensure taxi drivers and operators receive their due share of fares by providing for automation of taximeters; and
- promote the safe and high quality operation of public passenger services by prohibiting the offering of unlawful services.

Taxi security camera program

Taxi security camera systems have been used to record images in taxis since 2005. Despite this, serious criminal offences against taxi drivers and passengers continue to occur. Since 2005, there have been significant advances in security camera technology as well as changes in the needs and expectations of the taxi industry, government and the community.

Automation of taximeters

Some taxi drivers intentionally misuse taximeters for personal financial gain. For example, a driver may charge more than the maximum fares or take cash fares without using the taximeter to avoid having a record of the journey and paying the operator their share of the takings. These practices occur because taximeters require manual inputs from drivers to select the applicable tariff and any extra charges (for example, a booking fee) for the journey. In addition, taxi passengers may not understand how taxi fares are calculated allowing drivers to charge more than the maximum fares.

Offering the provision of public passenger services

An increasing number of advertisements are being placed on internet sites and in local papers offering unlawful public passenger services. For example, the services may be provided by operators who are not lawfully accredited or in vehicles that are not lawfully permitted to be used to provide the services. This activity is not in the public interest as it risks the safety and security of passengers and may cause the public to be misled in relation to the legality and government accreditation of a particular service.

Achievement of policy objectives

The policy objectives will be achieved by making the amendments to the *Transport Operations (Passenger Transport) Regulation 2005* (the Regulation) outlined below. Amendments will also be made to the *State Penalties Enforcement Regulation 2000* to allow infringement notices to be issued for the new offences outlined below.

Taxi security camera program

This regulation will enhance taxi driver and passenger safety by:

- requiring audio recording in taxis to deter potential offenders;
- ensuring taxi security camera systems are not obscured or obstructed and are properly fitted to ensure the quality of recordings for evidentiary purposes;
- extending the retention periods for downloaded security recordings to ensure they are not deleted before they can be used or disclosed for an authorised purpose; and
- transferring the requirement to ensure a taxi is fitted with a taxi security camera system from the taxi service licence holder to the operator of the taxi service, in recognition that the operator is more involved in the daily operation of the taxi and best placed to comply with this requirement.

Automation of taximeters

This regulation will reduce instances of overcharging of taxi fares and ensure taxi drivers and operators receive their due share of fares by:

- requiring taxi operators to ensure taximeters are automated and sealed according to approved programming requirements to reduce drivers' ability to charge more than the maximum fares;
- requiring taxi drivers to provide a person hiring a taxi with an itemised receipt on request to deter drivers from charging more than the maximum fares; and
- prohibiting taxi drivers from refusing electronic payments in order to deter drivers from taking cash fares to avoid paying the operator.

Offering the provision of public passenger services

This regulation will promote the safe and high quality operation of public passenger services by creating an offence for a person to offer a public passenger service unless the provider of the service is accredited and is to use vehicles permitted to be used under the Act.

Consistency with policy objectives of authorising laws

This regulation is consistent with the main objective of the *Transport Operations (Passenger Transport) Act 1994*, which is 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. In particular, the regulation promotes the safe and high quality operation of public passenger services consistent with the objectives of the Act.

The regulation is also consistent with the objectives of the *State Penalties Enforcement Act 1999*.

Benefits and costs of implementation

This regulation will not result in additional costs to government.

Taxi operators in more populated areas will need to upgrade existing taxi security camera systems to record both images and audio. The expected costs are recovered as part of the regulated taxi fares.

Audio recording in taxis is expected to enhance the quality of evidence, which may expedite court processes and legal disputes resulting in savings for government through the judicial system.

Taxi operators in more populated areas will need to update or purchase new taximeters to comply with the new programming requirements. The requirement for automated taximeters commences on 1 July 2014 to give operators time to undertake this upgrade.

The Department of Transport and Main Roads (the department), the taxi industry and the public will benefit from the amendments relating to taximeter automation, which are expected to reduce instances of passengers being overcharged and drivers concealing takings from operators for their own financial gain. The department will also benefit from a reduction in complaints regarding overcharging, potentially saving time and money.

Consistency with fundamental legislative principles

Audio recording may be considered to abrogate rights in relation to personal privacy. However, the department considers that the benefits to taxi driver and passenger safety outweigh any perceived loss of rights to privacy. Signs will be clearly displayed in taxis notifying passengers about the recording of audio. In addition, the use and disclosure of audio recordings will be restricted to prescribed authorised purposes in the same way as image recordings and the same maximum retention periods will apply.

The regulation will allow the chief executive to approve requirements for programming taximeters by gazette notice. This amendment may be considered to not have sufficient regard to the institution of Parliament by allowing for the subdelegation of a power delegated by an Act. The department considers that it is appropriate and justified to include programming requirements for taximeters in a gazette notice approved by the chief executive. The approved programming requirements will contain detailed requirements in relation to how a taximeter must be programmed (for example, providing for the automatic setting of tariffs) that would be unsuitable for a regulation and will be restricted to dealing with matters prescribed in the Regulation.

Consultation

The Taxi Council of Queensland (TCQ), which represents taxi industry stakeholders, Office of the Information Commissioner Queensland and members of the public were consulted on the amendments to enhance the taxi security camera program. The Office of the Information Commissioner Queensland raised privacy concerns about the provision of audio recording in taxis. TCQ supports the proposed amendments.

TCQ and members of the public were consulted on the amendments relating to the automation of taximeters. TCQ supports the proposed amendments.

TCQ and the Limousine Association Queensland, which represents limousine industry stakeholders, were consulted on the amendments relating to offering the provision of public passenger services. Both industry representatives are supportive of the proposal.

Consultation on the proposed amendments was also undertaken with the Department of the Premier and Cabinet, Queensland Treasury and Trade, the Department of Justice and Attorney-General, the Queensland Police Service and the Office of Best Practice Regulation.