

Transport Operations (Passenger Transport) and Other Legislation Amendment and Repeal Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 218

made under the

State Penalties Enforcement Act 1999

Transport Infrastructure Act 1994

Transport Operations (Passenger Transport) Act 1994

General Outline

Short title

*Transport Operations (Passenger Transport) and Other Legislation Amendment and Repeal
Regulation (No. 1) 2014*

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*

Section 490 of the *Transport Infrastructure Act 1994*

Sections 92 and 155 of the *Transport Operations (Passenger Transport) Act 1994*

Policy objectives and the reasons for them

Powers and offences for busways and light rail

The *Transport and Other Legislation Amendment Act 2014* streamlines legislation in relation to busway safety officers and other authorised persons operating on the public transport network. As a consequence of these changes, amendments are required to transfer existing busway provisions to the *Transport Operations (Passenger Transport) Regulation 2005*. The *Transport Infrastructure (Busway) Regulation 2002* will be repealed following the transfer of the existing busway provisions.

Gold Coast light rail operations commenced on 20 July 2014. During consultation with the light rail manager/operator for the Gold Coast light rail, GoldLinQ, it became clear that the chief executive and light rail manager/operator did not have sufficient powers to quickly and efficiently remove left or abandoned property from light rail (for example, a vehicle abandoned on the light rail track). Limitations relating to the enforcement of certain nuisance and disturbance behaviours on light rail were also identified. As a result, it was determined that existing powers to deal with left or abandoned property and relevant nuisance and disturbance offences, that are being transferred to the *Transport Operations (Passenger Transport) Regulation 2005*, should also be extended to apply to light rail. These provisions will help support the efficient, customer-friendly and safe operation of the new light rail network.

Using people movers for certain public passenger services

A 'people mover' is a passenger car with at least six (6) adult seating positions, including the driver's position. The Department of Transport and Main Roads' (the department) policy supports the use of people movers to provide a range of services, including general route services, school services, long distance scheduled passenger services, tourist services, accommodation transfer services, tourist transfer services and unscheduled long distance passenger services.

However, the current process for enabling the use of a people mover is cumbersome and not responsive to industry and consumer needs. Amendments aim to permit the use of people movers to provide these services in line with the department's policy.

Scheduled passenger services that are not general route services

The *Transport and Other Legislation Amendment Act 2014* clarified the meaning of general route service under the *Transport Operations (Passenger Transport) Act 1994*. The term 'general route service' defines services that are typically subject to market entry restrictions under which an operator must hold a service contract with the State. The objective of the consequential regulation amendments is to ensure that scheduled passenger services for single-purpose niche markets (for example, services for tourists) are not classified as general route services so operators can provide such services commercially without holding a service contract with the State.

Flexibility for the reimbursement of concessions

Previously, the State was required to reimburse the holder of a service contract for concessions, but not discounts, provided to certain groups. The *Transport and Other Legislation Amendment Act 2014* removed the distinction between concessions and discounts from the *Transport Operations (Passenger Transport) Act 1994*, and established a new concessions framework. Under the new framework, a service contract may, subject to negotiations, provide for the State to reimburse the holder of the contract for a concession to classes of persons prescribed by regulation. The regulation gives full effect to this change by providing the State and operators greater flexibility to negotiate the reimbursement of concessions for the prescribed classes of persons.

Definition of relevant taxi service area

The department's policy is that operators should be required to ensure taxis operating in taxi service contract areas are fitted with an approved taxi security camera system. A review by the department has determined that the Bribie Island and Warwick taxi service areas would no longer be classified as taxi service contract areas primarily due to the low number of taxi service licences in operation. Amendments will remove the requirement for operators to ensure taxis operating in these areas are fitted with an approved taxi security camera system, thereby reducing their regulatory burden. Operators would not, however, be prevented from voluntarily fitting a taxi operating in these areas with an approved taxi security camera system.

Gold Coast light rail route and updated terminology

The *Transport Operations (Passenger Transport) Regulation 2005* limits the powers of authorised persons for the Gold Coast light rail to being exercised for the Gold Coast light rail only. The light rail route is depicted in schedule 7A of the *Transport Operations (Passenger Transport) Regulation 2005*. The route depicted in schedule 7A needs to be updated as it does not match the final light rail route.

Further, the *Transport Operations (Passenger Transport) Regulation 2005* refers to the Gold Coast Rapid Transit, which is an outdated term. Amendments are needed to reflect current terminology.

Spitting while on or in certain public transport infrastructure and vehicles

Spitting while on or in public transport infrastructure and vehicles adversely affects the amenity of the infrastructure and experience of other customers. Amendments aim to deter spitting while on or in certain public transport infrastructure and vehicles.

Clarifying use of taxi subsidy scheme membership card

The taxi subsidy scheme (TSS) helps to provide an accessible transport option for people with a disability. The *Transport Operations (Passenger Transport) Regulation 2005* requires drivers to 'insert' the TSS membership card into an approved card reader to validate the currency of the person's membership and facilitate payment under the scheme. However, due to technological developments, the card can now be verified by simply touching it onto an approved card reader. Amendments aim to permit the use of a TSS membership card to validate the currency of the person's membership and facilitate payment under the scheme by means other than inserting the card into the reader.

Achievement of policy objectives

Powers and offences for busways and light rail

To streamline legislation in relation to busway safety officers and other authorised persons operating on the public transport network, powers to deal with left or abandoned property on busways and busway-related offences will be transferred to the *Transport Operations (Passenger Transport) Regulation 2005*. The *Transport Infrastructure (Busway) Regulation 2002* will be repealed.

To ensure the efficient, customer-friendly and safe operation of the new light rail network, the application of powers to deal with left or abandoned property and relevant nuisance and disturbance offences such as smoking and drinking alcohol that are being transferred to the *Transport Operations (Passenger Transport) Regulation 2005* will be extended to light rail. Consequential amendments to replace infringement notice offences prescribed under the *State Penalties Enforcement Regulation 2014* are also required to enable the effective enforcement of the new offences.

Using people movers for certain public passenger services

Amendments will be made to the *Transport Operations (Passenger Transport) Regulation 2005* to permit the use of people movers for general route services, school services, long distance scheduled passenger services, tourist services, accommodation transfer services, tourist transfer services and unscheduled long distance passenger services in line with the department's policy.

Minor consequential amendments will also be required to the *Transport Operations (Passenger Transport) Standard 2010* as a result of this change.

Scheduled passenger services that are not general route services

The regulation will achieve the objective of ensuring scheduled passenger services for single-purpose niche markets (as opposed to services for general purposes) are not subject to market entry restrictions and unnecessary regulation. The *Transport Operations (Passenger Transport) Regulation 2005* will be amended to prescribe two kinds of services that are not general route services:

1. A scheduled passenger service that is restricted to use for one specific purpose is not a general route service. For example, a scheduled passenger service that is restricted to use by spectators travelling to or from a football game is not a general route service.
2. A scheduled passenger service that is provided for one specific purpose and is subject to a condition that prevents a person from using the service primarily for another purpose is not a general route service. For example, a tourist service the use of which is subject to a fare that prevents a person from using the service for a purpose other than the purpose of tourism, such as going to work, is not a general route service. If a person were to use a tourist service primarily to go to work, the service would be operating in a broader market of scheduled passenger services for general purposes. The exemption from the definition of general route service would not apply to the service as a condition of service did not prevent the person from using the service primarily for another purpose.

Flexibility for the reimbursement of concessions

Infants, children, school students and a person who accompanies the holder of a companion card will be prescribed in the *Transport Operations (Passenger Transport) Regulation 2005* to provide flexibility to negotiate the reimbursement of concessions for these classes of persons.

Definition of relevant taxi service area

The objective of removing the requirement for an operator to ensure a taxi operating in the Bribie Island and Warwick taxi service areas is fitted with an approved taxi security camera system will be achieved by removing references to these areas from the definition of 'relevant taxi service area' in the *Transport Operations (Passenger Transport) Regulation 2005*.

Gold Coast light rail route and updated terminology

The Gold Coast light rail route will be updated by replacing the route in schedule 7A of the *Transport Operations (Passenger Transport) Regulation 2005* with the final route.

Amendments to the *Transport Operations (Passenger Transport) Regulation 2005* will replace references to 'Gold Coast Rapid Transit' and 'GCRT' with 'Gold Coast light rail' to reflect current terminology.

Spitting on or in certain public transport infrastructure and vehicles

The regulation will deter spitting by creating a new offence under the *Transport Operations (Passenger Transport) Regulation 2005* for spitting while on or in a public passenger vehicle, busway, busway transport infrastructure or light rail platform. The new offence will be prescribed as an infringement notice offence under the *State Penalties Enforcement Regulation 2014* to enable the effective enforcement of the behaviour.

Clarifying use of taxi subsidy scheme membership card

The regulation will permit the use of a TSS membership card by means other than inserting the card into an approved card reader. This will be achieved by requiring that the driver simply use the card with the reader to validate the currency of the person's membership and facilitate payment under the scheme.

Consistency with policy objectives of authorising law

The amendments to the *Transport Operations (Passenger Transport) Regulation 2005* are consistent with the objectives in section 2 of the *Transport Operations (Passenger Transport) Act 1994* about providing a system of public passenger transport that is responsive to community needs and offers an attractive alternative to private transport; promoting the personal safety of persons using public transport; providing a reasonable level of community access and mobility; and keeping government regulation to a minimum.

In addition, the amendments to the *State Penalties Enforcement Regulation 2014* are consistent with the objectives in section 4 of the *State Penalties Enforcement Act 1999*. The repeal of the *Transport Infrastructure (Busway) Regulation 2002* is not inconsistent with the objectives in section 2 of the *Transport Infrastructure Act 1994*.

Inconsistency with policy objectives of other legislation

The regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

The proposals to extend the application of powers to deal with left or abandoned property and relevant nuisance or disturbance offences to light rail and create a spitting offence are expected to benefit users of public passenger transport by promoting their safety and enhancing the customer experience.

The proposal to allow people movers to be used to provide certain public passenger services will benefit operators by allowing them access to a broader range of vehicles. Certain operators will also benefit from ensuring services for niche markets (for example, services for tourists) are not subject to market entry restrictions.

The changes will not result in significant costs for government, industry or the community.

Consistency with fundamental legislative principles

The amendments are consistent with the fundamental legislative principles.

Consultation

During the delivery of the Gold Coast light rail, the light rail manager/operator, GoldLinQ, specifically requested powers to deal with left or abandoned property on light rail.

The department consulted with the Department of the Premier and Cabinet, Department of Justice and Attorney-General, Queensland Police Service, Queensland Health, Queensland Treasury and Trade and the Office of Best Practice Regulation, Queensland Competition Authority on the proposed amendments.

All agencies consulted agree with the proposed amendments.