

# ***Transport and Other Legislation (Personalised Transport Reform) Amendment Regulation 2017***

Explanatory notes for SL 2017 No. 88

made under the

*Motor Accident Insurance Act 1994, National Injury Insurance Scheme (Queensland) Act 2016, State Penalties Enforcement Act 1999, Transport Operations (Passenger Transport) Act 1994, and Transport Operations (Road Use Management) Act 1995.*

## **General Outline**

### **Short title**

*Transport and Other Legislation (Personalised Transport Reform) Amendment Regulation 2017*

### **Authorising law**

Section 100 *Motor Accident Insurance Act 1994*

Section 140 *National Injury Insurance Scheme (Queensland) Act 2016*

Section 165 *State Penalties Enforcement Act 1999*

Sections 80BA and 155 *Transport Operations (Passenger Transport) Act 1994*

Sections 148 and 171 *Transport Operations (Road Use Management) Act 1995*

### **Policy objectives and the reasons for them**

The regulation of personalised transport, including taxi, limousine and ride-booking services, has been a complex matter subject to analysis and intense scrutiny by government, industry and the public, culminating in the *Transport and Other Legislation (Personalised Transport Reform) Amendment Act 2017* (the Amendment Act) which was passed by the Queensland Parliament on 24 May 2017.

The Amendment Act amends the *Transport Operations (Passenger Transport) Act 1994* (TOPTA) and other Acts to introduce a new regulatory framework for personalised transport

in Queensland, including a new booked hire service licence, booking entity authorisation and industry chain of responsibility.

The *Transport and Other Legislation (Personalised Transport Reform) Amendment Regulation 2017* facilitates the implementation of some of the matters outlined in, or underpinning, the reforms contained in the Amendment Act by:

- Introducing a new motor vehicle class for compulsory third party insurance for booked hire vehicles and limousines;
- Clarifying requirements for display of signs in vehicles used to provide booked hire services;
- Introducing a risk based approach for security cameras in taxis, limousines and booked hire vehicles;
- Requiring booked hire vehicles to have Certificates of Inspection and providing transitional arrangements for vehicles with Safety Certificates;
- Ensuring Approved Inspection Stations are able to issue Certificates of Inspection for booked hire vehicles, taxis and limousines up to 4.5 tonne Gross Vehicle Mass; and
- Making other minor amendments including consequential amendments relating to infringement notices and to reflect the omission of provisions relating to taxi bailment agreements from TOPTA.

Commencement of the Amendment Act and related subordinate legislation is proposed to be phased from 9 June 2017 to allow time for industry to prepare for the new regulatory framework and for systems changes to be completed. Further regulation amendments are proposed to be made in the second half of this year to fully implement the reforms.

## **Achievement of policy objectives**

### Compulsory Third Party (CTP) insurance:

For the purpose of CTP insurance, booked hire vehicles are currently usually insured as private “passenger vehicles” (class 1) with limousines insured as “hire vehicles” (class 4).

With the increasing number of vehicles being used to provide booked hire services, a new CTP risk class has been identified and, after actuary analysis, this class is to be subject to new premiums and other amounts.

The amendments will introduce a new CTP motor vehicle class (class 26) for booked hire vehicles and limousines that are not also motor vehicles made available, at any time, for hire without a driver. The amendments will also nominate the levies and other amounts that relate to CTP transactions, including the contribution to the National Injury Insurance Scheme.

Limousines or booked hire vehicles that are also rental vehicles (for example, a vehicle that is hired out by a car rental company for the purpose of providing booked hire services; or a private passenger vehicle that, when it is not being used to provide booked hire services, is made available at any time for hire without a driver) will continue to be subject to the “hire vehicle” class (class 4).

The actuary analysis did not change the level of risk applicable to taxis so taxis will continue to remain in their own CTP class (class 3).

In accordance with section 14A(3) of the *Motor Accident Insurance Act 1994*, through this regulation the proposed changes to the levies will be notified more than three months before the levies will apply. The new CTP class is proposed to commence on 1 October 2017.

#### Signage requirements for vehicles being used to provide booked hire services

Taxis and limousines are easily identifiable to customers and enforcement officers through their “T” and “L” number plates.

Drivers of booked hire vehicles are currently required to ensure a sign is displayed in the vehicle to reasonably imply the vehicle is a booked hire vehicle.

The amendments will provide more rigour to the requirements around the signs and their visibility and also ensure that booked hire service identification signs are not displayed when the vehicle is not being used to provide booked hire services. These changes are proposed to commence on 1 October 2017.

#### Risk based approach to security cameras

Approved taxi security camera systems are currently required to be fitted and operational in all taxis within particular taxi service areas (generally metropolitan areas). This requirement is in the interests of driver and passenger protection.

With the increase in booked hire services, analysis was undertaken which identified the following risk factors that warrant the installation and operation of security cameras in vehicles providing taxi or booked hire services:

- Where the driver or passenger is anonymous (rank or hail work, due to the risk of assault);
- Where the payment for the journey is made in cash (risk of theft); and
- Where the payment for the journey is required to be made in person during or at the end of the journey (risk of fare evasion).

The regulation will apply these risk factors to requirements around the fitting and operation of approved security camera systems in taxis, limousines and booked hire vehicles. These requirements will apply in the same areas where taxis are currently required to fit and operate approved taxi security camera systems.

Operators of services that do not meet the risk criteria may still choose to fit and operate approved security camera systems in their vehicles for the protection of drivers or passengers – but if they do they must comply with the requirements in the regulation about signage, use of recordings and security safeguards.

To protect passenger privacy, the regulation also prohibits cameras other than approved security camera systems or cameras operated by passengers from being fitted or operated in the vehicle. Camera systems that record images in front of or behind the vehicle, but do not record the inside of the vehicle, are permitted.

#### Certificate of Inspection (COI)

Owners of taxis and limousines are required to possess a COI for their vehicle. Since 1 November 2016, owners of booked hire vehicles have been required to have a Safety Certificate (SC) issued within the previous 12 months for their vehicle.

To ensure parity between the different personalised transport providers, the regulation will require all vehicles used to provide personalised transport services to have a COI.

Currently COIs for taxis and limousines are issued by departmental Authorised Officers. However, in order to meet the increased demand the new requirement poses, it is proposed to allow particular Approved Inspection Stations (AIS) (that meet certain equipment requirements and issue inspection certificates online) to also issue COIs for booked hire vehicles, taxis and limousines up to 4.5 tonne Gross Vehicle Mass.

To minimise inconvenience to industry participants and ensure an orderly transition from SCs to COIs for booked hire vehicles, it is proposed that:

- AISs will be able to issue COIs from 1 September 2017; and
- From 1 October 2017 to when the personalised transport reforms are fully operational, a current SC will be able to be converted into a COI, with the same expiry date, for the purpose of obtaining a booked hire service licence without the vehicle being re-inspected.

#### Minor matters

In addition, the regulation includes consequential changes to the *State Penalties Enforcement Regulation 2014* and minor amendments to the *Transport Operations (Passenger Transport) Regulation 2005*.

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

The regulation is consistent with the policy objectives of the authorising Acts.

### **Inconsistency with policy objectives of other legislation**

The regulation is not inconsistent with the policy objectives of other legislation.

### **Alternative ways of achieving policy objectives**

There are no alternative means of achieving the purpose of the regulation.

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

The reforms contained in this regulation will:

- Ensure appropriate CTP premiums, levies and other amounts are applied to booked hire vehicles and limousines;
- Provide for improved signage for booked hire vehicles making the vehicle more easily identifiable to customers and enforcement officers;
- Ensure approved security cameras systems are fitted and operated in vehicles that meet identified risk criteria and appropriate privacy protections apply where the systems have been fitted; and
- Provide consistent vehicle inspection requirements for taxis, limousines and booked hire vehicles while also allowing more choice as to who can conduct vehicle inspections.

Costs of the implementation of these amendments will be achieved from within existing budget allocation.

## **Consistency with fundamental legislative principles**

The regulation is generally consistent with the fundamental legislative principles.

The provisions about fitting and the operation of approved security camera systems may raise fundamental legislative principles issues relating to privacy. The new provisions generally correspond to existing provisions in Part 6, Division 4 of the *Transport Operations (Passenger Transport) Regulation 2005* although they now also potentially apply to booked hire vehicles or limousines that meet the risk criteria.

Ultimately, the requirement to fit and operate approved security camera systems in these vehicles when they meet the risk criteria is justified in the interests of driver and passenger protection. However, it is also important to note the regulation includes provisions designed to minimise any impact on privacy, including requirements for signage (so passengers are aware of the cameras before they enter the vehicle), prohibition on non-approved cameras being used, limitations as to the authorised purposes for which recording can be accessed and used and requirements around security measures and disposal of recordings.

## **Consultation**

The personalised transport reforms have been subject to extensive consultation with industry and subject to significant scrutiny during the policy development and parliamentary committee processes.