

Transport Operations (Passenger Transport) Amendment Regulation (No. 1) 2019

Explanatory notes for SL 2019 No. 186

made under the

Transport Operations (Passenger Transport) Act 1994

General Outline

Short title

Transport Operations (Passenger Transport) Amendment Regulation (No. 1) 2019

Authorising law

Sections 36, 74, 76 and 155 of the *Transport Operations (Passenger Transport) Act 1994*

Policy objectives and the reasons for them

The policy objectives for the *Transport Operations (Passenger Transport) Amendment Regulation (No. 1) 2019* (the amendment regulation) are to:

- ensure some types of scheduled passenger services, to and from Cairns, Gold Coast, Sunshine Coast and Townsville airports, no longer require service contracts, and
- extend the period that a substitute taxi can be used under a peak demand exemption notice, until 30 September 2020.

Serviced airports

Scheduled passenger services provided for a restricted group or for one specific purpose are not considered general route services. As a result, these services are not subject to market entry restrictions and consequently, do not require a service contract with the Department of Transport and Main Roads (the Department) to operate.

However, scheduled passenger services at Brisbane, Cairns, Gold Coast, Sunshine Coast and Townsville airports (serviced airports) are still considered general route services, even if they are provided for one specific purpose (for example, for air travellers), unless they are accommodation, tourist or tourist transfer services or are pre-booked. These services require a

service contract with the Department to operate at serviced airports. The policy intent was to ensure that the market for 'walk up' bus passengers at these airports was protected from competition by requiring a service contract with the State to operate these services.

Independent analysis was undertaken to review the effectiveness of the current service contract requirement framework at serviced airports. This analysis indicated that the current framework at serviced airports was unnecessary. The analysis indicated there would be causal benefits from removing the requirement for services to hold a service contract, including evidence that competition pressures may result in lower fares for customers and improved innovation within the public passenger service market.

Extension period for substitute taxis

Section 284 of *Transport Operations (Passenger Transport) Regulation 2018* (TOPTR) is a transitional provision that provides that, until 30 September 2019, a peak demand exemption notice can allow an authorised booking entity to use a substitute taxi during peak patronage periods.

The transitional provision was to maintain the current arrangements until the implementation of new, more flexible, taxi service licences. The implementation of the new taxi service licences is underway, but will not be completed by 30 September 2019. Therefore, the transitional period when an authorised booking entity can use a substitute taxi in accordance with a peak demand exemption notice, is being extended until 30 September 2020.

Achievement of policy objectives

The amendment regulation achieves the policy objectives listed above by amending TOPTR, as set out below.

Serviced airports

The amendment will effectively remove the requirement for scheduled passenger services to hold a service contract when operating to and from Cairns, Townsville, Sunshine Coast and Gold Coast airports in circumstances where the service is provided for one specific purpose consistent with section 265(1) of TOPTR. This will align with requirements that apply to other scheduled passenger services at those locations. Services to and from the airports will be able to meet the 'one specific purpose' requirement by restricting access to their service to a particular subset of passengers, for example, by providing services only for airline passengers.

There will be no change in relation to service contract requirements for scheduled passenger services to or from Brisbane Airport due to other contractual arrangements currently in place.

Extension period for substitute taxis

To maintain existing arrangements regarding the use of substitute taxis until the implementation of new taxi service licences, the transitional period during which a substitute taxi can be used under a peak demand exemption notice will be extended until 30 September 2020.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objects of the *Transport Operations (Passenger Transport) Act 1994*. The amendment regulation relates to achieving the best possible public passenger transport at reasonable cost to the community and government and keeping government regulation to a minimum while recognising that market entry restrictions may be needed in the public interest.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The amendments impacting services to and from Cairns, Gold Coast, Sunshine Coast or Townsville airports are expected to result in improved levels and access to services operating out of these airports, nominal cost savings for passengers, while reducing the regulatory burden for operators. The Queensland Government will achieve marginal costs savings by removing the requirement to administer service contracts at serviced airports.

Extending the transitional period during which a substitute taxi can be used under a peak demand exemption notice, will ensure operators can continue to use substitute taxis to provide services during peak periods.

There will be no cost associated with extending the period that a substitute taxi can be used under a peak demand exemption notice.

Consistency with fundamental legislative principles

The amendments are consistent with the fundamental legislative principles.

Consultation

In relation to the serviced airport amendments, as part of the independent market analysis, several relevant stakeholders were consulted including all current contracted operators, potential competitor operators, airport infrastructure owners (including all five serviced airports), and non-contracted and personalised transport operators. Generally there was support for the amendment, although some operators raised concerns about increased competition with that removal of service contract requirements. It should be noted the current contracts at impacted serviced airports do not provide for exclusivity.

The Office of Best Practice Regulation reviewed a Preliminary Impact Assessment in relation to the proposed amendment to the definition of serviced airports and advised that due to the consultation that has occurred in relation to the proposed amendment, no further regulatory analysis was required under the *Queensland Government Guide to Better Regulation* (the Guidelines).

In accordance with the Guidelines, TMR applied a self-assessable exclusion from undertaking further regulatory impact analysis on the amendment relating to the extension period for substitute taxis based on exclusion category (g) – proposals that are machinery in nature.

©The State of Queensland 2019