

# Transport Operations (Passenger Transport) and Other Legislation Amendment Regulation 2019

Explanatory notes for SL 2019 No. 218

made under the

*Transport Operations (Passenger Transport) Act 1994*  
*State Penalties Enforcement Act 1999*

## General Outline

### Short title

*Transport Operations (Passenger Transport) and Other Legislation Amendment Regulation 2019*

### Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*  
Sections 15, 27, 27A, 29, 92 and 155 of the *Transport Operations (Passenger Transport) Act 1994*

### Policy objectives and the reasons for them

The *Personalised Transport Ombudsman Act 2019* (the PTO Act) was assented to on 12 September 2019. The PTO Act includes amendments to the operator accreditation (OA) and driver authorisation (DA) framework in the *Transport Operations (Passenger Transport) Act 1994* (TOPTA) including reducing maximum penalties. The PTO Act also includes miscellaneous provisions to aid compliance and enforcement.

The policy objectives of the *Transport Operations (Passenger Transport) and Other Legislation Amendment Regulation 2019* (the Amendment Regulation) are to implement and support amendments made through the PTO Act by:

- clarifying the public passenger services for which OA and DA are required
- introducing definitions to reflect a simplified DA framework
- updating section references and infringement notice penalty amounts in *State Penalties Enforcement Regulation 2014* (SPER) for OA and DA offences

- adjusting the definitions of 'forward-control passenger vehicle', 'off-road passenger vehicle' and 'passenger vehicle' in the *Transport Operations (Passenger Transport) Regulation 2018* (TOPTR) to ensure the information on a compliance plate can be used to determine a vehicle category. These changes complement amendments in the PTO Act that provide for an evidentiary certificate to be used for matters stated on a compliance plate

The Amendment Regulation will also make some minor technical improvements to the definitions of 'operator accreditation number' and 'eligible school students' in the *Transport Operations (Passenger Transport) Standard 2010* (the Standard) to correct an error and ensure they align with other provisions.

## **Achievement of policy objectives**

The Amendment Regulation achieves the policy objectives through the amendments outlined below.

### *Operator Accreditation and Driver Authorisation related amendments*

The Amendment Regulation includes amendments to clarify when OA and DA are required. Sections 19 and 69 of TOPTR currently indicate that OA and DA are not required for ferry, cableway and monorail public passenger services, as well as a number of other services. The PTO Act amended sections 15 and 27 of TOPTA to clarify that OA and DA are not required for services that are not provided on a road. As a result, the Amendment Regulation updates sections 19 and 69 of TOPTR so they no longer refer to ferry, cableway and monorail services. Sections 19 and 69 are also amended to clarify that any locally significant event service is exempt from the OA and DA requirements.

The types of DA available under TOPTR has been simplified as part of the remake of TOPTR in 2018. While previously there were five types of DA, under the new scheme only two types of DA are available as defined in new section 22A. The simplified DA framework is reflected in the definitions of 'driver authorisation (booked hire service and taxi)' (where the driver is authorised to drive a vehicle used to provide any public passenger service) and 'driver authorisation (general)' (where the driver is authorised to drive a vehicle to provide a public passenger service other than a booked hire service or a taxi service). New section 303 is a transitional provision explaining how the previous codes on authorising documents translate to the new scheme.

The Amendment Regulation also makes a number of minor consequential amendments to update section numbers, references and definitions arising from the above changes.

The Amendment Regulation also amends SPER to update section references and infringement notice penalty amounts for OA and DA related offences consistent with reduction in the maximum penalty arising from the PTO Act.

### *Other amendments*

The Amendment Regulation also:

- removes the definition of 'school student' from section 73(2) of TOPTR, as the definition is now included in Schedule 3 of TOPTA as a result of the PTO Act

- amends schedule 9 of TOPTR to update definitions of 'forward-control passenger vehicle', 'off-road passenger vehicle' and 'passenger vehicle' in TOPTR to ensure the information on a compliance plate can be used to determine a vehicle category. These changes complement provisions in TOPTA (as amended by the PTO Act) that provide for an evidentiary certificate to be used for matters stated on a compliance plate
- makes minor adjustments in the Standard to the definitions of 'operator accreditation number' to correct an error and to 'eligible school students' to ensure it aligns with other provisions.

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

The Amendment Regulation is consistent with the main objective of TOPTA, that 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.

The Amendment Regulation is also consistent with the objects of the *State Penalties Enforcement Act 1999*, including maintaining the integrity of fines as a viable sentencing or punitive option for offenders.

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

The Amendment Regulation is not inconsistent with the policy objectives of other Queensland legislation.

## **Benefits and costs of implementation**

The benefits of making the amendment regulation include:

- providing increased certainty around when OA and DA are required
- aligning the reduction in maximum penalty for OA and DA offences where a DA holder does not have the correct type of DA for the service they provide, with reduced infringement notice penalties
- reducing administrative costs in court proceedings by ensuring compliance plate information can be used to determine vehicle category (which can then be provided through evidentiary certificate under TOPTA provisions)
- ensuring references in the TOPTR and Standard are correct and aligned with other provisions

The costs of implementing the amendments are minimal and will be met from existing resources.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with the fundamental legislative principles and supports amendments made through PTO Act. The matters included are sufficiently routine or administrative in nature to be appropriate for regulation.

## Consultation

During the drafting of the PTO Bill, the Department of Transport and Main Roads (TMR) undertook consultation on the proposed amendments relevant to the personalised transport industry with relevant industry stakeholders, including:

- Taxi Council of Queensland
- Gold Coast Cabs
- Black and White Cabs
- 13 Cabs Queensland
- Limousine Association of Queensland
- Limo Action Group
- Uber
- Shebah
- Ride Share Drivers' Association of Australia
- Go Catch
- RACQ
- Transport Workers Union
- Spinal Life Australia
- Queensland Bus Industry Council
- Queensland School Bus Alliance
- Brisbane Transport
- Keolis Downer
- Queensland Rail

No objections were raised during consultation for the PTO Bill regarding the proposed amendments to the evidentiary provisions or the OA and DA framework.

The Office of Best Practice Regulation in the Queensland Productivity Commission has advised that the amendments appear unlikely to result in significant adverse impacts, and that no further regulatory impact assessment is required under the *Queensland Government Guide to Better Regulation* (the Guidelines).

In relation to the amendments which update references in the TOPTR and the Standard, TMR in accordance with the Guidelines, applied a self-assessable exclusion from undertaking further regulatory impact analysis under Category G—No substantive policy change has been made.

No further community or industry consultation was carried out specifically for the Amendment Regulation due to the limited scope and machinery nature of the amendments.