

# Transport Operations (Passenger Transport) Amendment Regulation (No. 2) 2019

Explanatory notes for SL 2019 No. 245

made under the

*Transport Operations (Passenger Transport) Act 1994*

## General Outline

### Short title

*Transport Operations (Passenger Transport) Amendment Regulation (No. 2) 2019*

### Authorising law

Sections 29, 62AAA, 111(2), 114 and 155 of the *Transport Operations (Passenger Transport) Act 1994*.

### Policy objectives and the reasons for them

#### Yarrabilba service contract area

Yarrabilba is in the south-west growth corridor of South East Queensland. The requirement to provide general route services for the Yarrabilba development expires in May 2020. To ensure the continuity of general route services for Yarrabilba, the Department of Transport and Main Roads (TMR) recently declared that a service contract will be required to provide a general route service in the Yarrabilba service contract area.

TMR intends to integrate the general route services for Yarrabilba into TransLink's *go* card network in South East Queensland under an integrated mass transit service contract. The Yarrabilba service contract area must be prescribed by regulation as part of the integrated mass transit area before the general route services can be provided under an integrated mass transit service contract.

### Taxi driver display cards

TMR may issue a taxi driver display card to holders of a driver authorisation (booked hire and taxi). The driver of a taxi must display their taxi driver display card in a prominent position while the taxi is available for hire in a prescribed area. The purpose of a taxi driver display card is to allow passengers to verify whether a driver holds driver authorisation (booked hire and taxi).

It is an offence for a person who does not hold driver authorisation (booked hire and taxi) to display a taxi driver display card when driving a taxi while the taxi is available for hire. However, it is not an offence for a person who does not hold driver authorisation (booked hire and taxi) to display a taxi driver display card in a vehicle that is not a taxi, contrary to the purpose of taxi driver display cards. As such, an amendment is needed to make it an offence for a person who does not hold driver authorisation (booked hire and taxi) to display a taxi driver display card in any vehicle.

Taxi driver display cards are currently headed ‘Authorised Queensland Taxi Driver’ and show certain particulars, including the driver’s digital photo, driver authorisation number, an expiry date and an indication that it is issued by the Queensland Government. An amendment is necessary to better reflect that the holder of driver authorisation (booked hire and taxi) is authorised for other public passenger services and not just taxi services.

### Authorised persons for service contracts

Fare evasion on public passenger transport is currently estimated to cost the State about \$25 million each year. In addition to fare evasion, reports indicate that most assaults on drivers are associated with disputes about the payment of fares or safety concerns around passenger behaviour.

A trial will assess the effectiveness of using persons managed by operators of public passenger services under a service contract with TMR to undertake compliance and enforcement activities to address fare evasion and related safety issues. The trial complements the continued work of authorised persons (transit officers) who are employed by TMR to undertake a broader range of compliance and enforcement activities across the public transport network. An amendment is needed to allow persons managed by service contract holders to be appointed by the chief executive as authorised persons under section 111 of *Transport Operations (Passenger Transport) Act 1994* (TOPTA).

## **Achievement of policy objectives**

### Yarrabilba service contract area

The *Transport Operations (Passenger Transport) Amendment Regulation (No. 2) 2019* (amendment regulation) allows TMR to integrate the general route services for Yarrabilba into the go card ticketing system under an integrated mass transit service contract by prescribing the Yarrabilba service contract area as part of the integrated mass transit area.

### Taxi driver display cards

The amendment regulation prohibits a person from displaying a taxi driver display card in any vehicle unless the person holds a driver authorisation (booked hire and taxi). This ensures passengers can have greater confidence that the driver of any vehicle in which a taxi driver display card is displayed holds the appropriate driver authorisation. The amendments will also apply to interim taxi driver display cards. Additionally, the amendment regulation provides for new taxi driver display cards to be headed ‘Authorised Driver—Booked Hire and Taxi’. The new heading better reflects that taxi driver display cards are issued to holders of driver authorisation (booked hire and taxi) and may be displayed in vehicles other than taxis.

### Authorised persons for service contracts

The amendment regulation allows for the trial by prescribing certain classes of persons managed by service contract holders, as persons who can be appointed by the chief executive as an authorised person. The amendment regulation also limits the powers of an authorised person appointed under the new provision and is modelled largely on the powers given to Customer Service Officers managed by GoldLinQ for the Gold Coast Light Rail.

### Minor amendment

The amendment regulation corrects an incorrect reference in the heading of section 31 of the *Transport Operations (Passenger Transport) Regulation 2018* (TOPTR).

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

The amendment regulation is consistent with the main objects of TOPTA. The amendment regulation principally aims to achieve the best possible public passenger transport at reasonable cost to the community and government and promote the personal safety of persons using public passenger transport.

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

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

## **Benefits and costs of implementation**

### Yarrabilba service contract area

Integration with the *go* card system in the Yarrabilba service contract area will provide fare savings and greater service connectivity to passengers. This should encourage greater use of public transport in the Yarrabilba service contract area.

The Queensland Government will incur costs associated with procuring the services in the Yarrabilba service contract area and integrating into the *go* card ticketing area as well as ongoing costs relating to the delivery of the service under the service contract.

### Taxi driver display cards

Ensuring that a driver, who is displaying a taxi driver display card or an interim taxi driver display card in a vehicle, holds a driver authorisation (booked hire and taxi), will reinforce customers' confidence in the taxi driver display card. The amendments will not result in additional costs for government.

### Authorised persons for service contracts

Appointing authorised persons who are managed by service contract holders for the trial aims to allow TMR to assess the effectiveness of the proposed compliance and enforcement approach in delivering the following benefits:

- reduced rates of fare evasion;
- improved safety and confidence of passengers and drivers in the safety of the relevant services; or
- reduced damage to property.

The amendments supporting the trial will not result in significant additional costs for government, the community or business.

## **Consistency with fundamental legislative principles**

The amendments supporting the trial of authorised persons managed by service contract holders may breach the fundamental legislative principle about the delegation of administrative power in appropriate cases and to appropriate persons. The potential breach is justified because both TOPTA and the amendment regulation include many safeguards relating to the appointment of authorised persons for service contracts and the powers they may exercise, including:

- only the chief executive may appoint an authorised person (see section 111(2) of TOPTA);
- the chief executive can only appoint an authorised person if, in the chief executive's opinion, the person has the necessary expertise or experience to be an authorised person, or the person has satisfactorily finished training approved by the chief executive (see section 111A of TOPTA);
- the chief executive may restrict the powers of an authorised person by written notice given to the person (see section 111(4) of TOPTA);
- the amendment regulation limits the powers of authorised persons managed by service contract holders (new sections 268B(1) and (3));
- the amendment regulation limits the offences to which of authorised persons managed by service contract holders can serve infringement notices (new section 268B(2)); and
- the amendment regulation limits the public passenger services and public transport infrastructure in relation to which authorised persons managed by service contract holders can exercise their powers (new section 268B(4)).

Further, the amendment regulation excludes the use of reasonable force in relation to the power of an authorised person to require a person to leave public transport infrastructure if the person is committing particular offences (refer to section 143AHA(2) of TOPTA).

## Consultation

Economic Development Queensland and Lendlease (Yarrabilba) Development Pty Ltd support the Yarrabilba service contract area being prescribed as an integrated mass transit area. Logan Coaches had no objections to the service contract area being prescribed as an integrated mass transit area.

A Youth Fare Evasion Roundtable was convened with 30 representatives from key government agencies (including the Department of Education, Department of Justice and Attorney-General and Queensland Police Service), university, and community advocacy sectors, in response to growing concerns about deliberate youth fare evasion. The Youth Fare Evasion Roundtable resulted in the development of the Youth Fare Evasion Action Plan, which includes 9 priority actions, including the investigation of third party enforcement.

TMR commissioned research through an independent provider to gain insights from parents and youths about why youths fare evade, and what views were relating to various potential interventions. The research identified that both parents and youths acknowledged that fare evasion is wrong and should be addressed. The research also indicated that there was a good level of support for the proposal to have additional authorised persons on services and at service stops.

TMR also consulted Westside Bus Company and Park Ridge Transit about the trial of authorised persons managed by the service contract holder.

In accordance with the Queensland Government Guide to Better Regulation (Guidelines), TMR applied a self-assessable exclusion from undertaking further regulatory impact analysis on the following amendments based on exclusion categories (g) and (f) respectively:

- prescribing the Yarrabilba service contract area as part of the integrated mass transit area; and
- fixing an error in the heading of section 31 of TOPTR.

The Office of Best Practice Regulation (OBPR) was consulted about the other proposed amendments contained in the amendment regulation. OBPR advised that because the proposals will likely have minimal impact on regulatory burden and not result in significant adverse impacts, no further regulatory analysis was required under the Guidelines.