

Rural and Regional Adjustment (Variation of Wheelchair Accessible Taxi Grants Scheme) Amendment Regulation 2022

Explanatory Notes for SL 2022 No. 175

made under the

Rural and Regional Adjustment Act 1994

General Outline

Short title

Rural and Regional Adjustment (Variation of Wheelchair Accessible Taxi Grants Scheme) Amendment Regulation 2022

Authorising law

Sections 3, 10, 11 and 44 of the *Rural and Regional Adjustment Act 1994*

Policy objectives and the reasons for them

The policy objectives of the *Rural and Regional Adjustment (Variation of Wheelchair Accessible Taxi Grants Scheme) Amendment Regulation 2022* (the Amendment Regulation) is to encourage greater participation and access to the Wheelchair Accessible Taxi Grants Scheme (the Scheme) by:

- extending the length of the Scheme to 30 June 2024 so that wheelchair accessible taxi (WAT) operators are in a better position to take advantage of the available funding as it recovers from the financial effects of the COVID-19 pandemic;
- expanding eligibility to allow:
 - licence holders or lessees without a vehicle stated on their taxi service licence (TSL) to apply for assistance under the Scheme until 30 June 2023;
 - licensees to move funded vehicles between TSLs that they hold or lease;and
- clarifying existing provisions of the Scheme.

The Scheme was implemented in late 2019 in response to industry concerns about an ageing WAT fleet to encourage the replacement of non-wheelchair accessible taxis in specific service areas. It was to ensure continuity of accessible taxi services to those with reduced mobility throughout Queensland.

Extending the Scheme

The Queensland Government's funding of \$21 million was anticipated to provide for the replacement of 447 identified eligible vehicles out of a fleet of 641 WATs across four years. However, a review conducted by the Department of Transport and Main Roads (DTMR) of the Scheme identified that the target numbers of replaced or introduced WATs have not been reached, and are unlikely to be reached, prior to the Scheme closing on 30 June 2023.

The low number of applications for assistance under the Scheme has been due to the impact of the COVID-19 pandemic, which affected the sourcing of new vehicles and accessing financial and lending facilities by taxi operators.

Extending the Scheme for another year will support licence holders recovering from the downturn as a result of the COVID-19 pandemic who have been unable to access the scheme to date as a result of prevailing conditions in the industry. The extension will support delivery of the policy objectives of the scheme to modernise, and reduce the average age of the WATs being used to provide taxi services in Queensland.

Expanding eligibility requirements

Industry stakeholders reported that there have been a number of unintended eligibility impediments for TSL holders and lessees applying for assistance under the Scheme.

A condition of a TSL is that a vehicle must be attached to the licence at all times. Due to the economic impacts of the COVID-19 pandemic on the industry, some TSLs have had no vehicle attached and DTMR has not imposed any penalties on the licence holder. This approach was to provide licence holders and lessees the opportunity to resume operation of the TSL and to promote economic sustainability of the industry.

A licence holder who does not have a vehicle attached to his or her TSL is not eligible to apply for assistance under the Scheme. This is because assistance is conditional on a vehicle being attached to the TSL. Holders and lessees of a TSL who have not had a vehicle attached on their licenses for a period of 3 months or more will be given the opportunity to apply for assistance under the Scheme until 30 June 2023. Temporarily extending eligibility in this way will provide an incentive to taxi operators to expand the WAT fleet and support the recovery of the industry through participation in the Scheme.

An ongoing effect of the COVID-19 pandemic has been an unprecedented movement of taxi operators within the industry which has discouraged WAT operators from applying for assistance under the Scheme. Licensees have been unwilling or unable to enter into agreements with the authority because the Scheme requires that a funded vehicle be stated in the applicant's TSL for at least 3 years. That is, it cannot be used to provide a taxi service under another TSL that the licensee holds or leases.

To retain the flexibility of movement of vehicles between TSLs and encourage all eligible applicants to apply, the Scheme will be amended to allow the movement of funded WATs between the taxi licences held or leased by the applicant. This is not extended to applicants who obtain funding to replace a conventional taxi with a WAT under the Scheme, as it would be inconsistent with:

- the objective of increasing the number of WATs in Queensland's fleet if such a vehicle could be moved to a licence that already had a WAT condition;

- the restrictions to eligible taxi service areas applicable to these applications.

Clarifying current provisions

DTMR has identified that some vehicles replaced under the Scheme have been transferred to another licence and may be the subject of applications to be replaced on multiple occasions. It is not considered consistent with the primary objective of replacing Queensland's aging WATs for the Scheme to fund the replacement of the same vehicle across multiple WAT licences. To avoid operators seeking to profit from funding through the repeated replacement of the same vehicle, the Amendment Regulation amends the definition of eligible replacement vehicle to exclude vehicles that have been previously replaced under the Scheme. A taxi that is written off and not operational will still be an eligible replacement vehicle under the Scheme.

It is additionally clarified that:

- the authority has a discretion to operate the scheme in rounds. This streamlines administration of the Scheme by the authority, allowing ongoing decision of applications, and provides clarity to applicants on when they may or may not participate; and
- the priority of considerations for applications will include instruction on the order in which applications are decided by the authority, including for applicants under a licence with no vehicle attached to it.

Achievement of policy objectives

The Amendment Regulation achieves its objectives by amending Schedule 15 of the *Rural and Regional Adjustment Regulation 2011*. The amendments are discussed below in relation to the objective to which they align.

Extending the Operational Period of the Scheme

The Amendment Regulation achieves its objective of extending the operational period of the Scheme by:

- amending section 7 to replace '30 June 2023' with '30 June 2024' to extend the operational period by a year. This will provide the taxi industry additional time to apply for assistance under the Scheme.

Expanding Eligibility

The Amendment Regulation achieves its objective of extending the eligibility requirements by:

- amending section 8 (Eligibility criteria – reimbursement for acquiring new wheelchair accessible taxi) and section 9 (Eligibility criteria – assistance to acquire new wheelchair accessible taxi) to provide a licensee who does not have a vehicle stated in the TSL to be eligible for assistance provided they meet all the other eligibility criteria. A new section 26 (Existing applications for assistance) provides that the extended criteria will also apply to all applications that have been lodged, but not decided, at commencement.
- inserting new sections 27 (Application of particular provisions continued) and amending sections 8 and 9 to provide that licence holders who do not have a vehicle stated in the TSL will only have until 30 June 2023 to apply for assistance

under the Scheme. This is to facilitate operators in returning to business more quickly.

- Inserting new section 11(3)(c) and (d) to provide that under terms of the agreement with the authority, the licensee may transfer the funded vehicle to another TSL. However, if the licensee has received assistance to replace an eligible replaceable taxi that was not a WAT, the licensee may not transfer the vehicle to another TSL.

Clarifying existing provisions

The Amendment Regulation achieves its objective of clarifying existing provisions of the Scheme by:

- amending section 5 (Meaning of eligible replaceable taxi) to clarify a vehicle's eligibility to exclude a WAT if assistance has already been granted to replace the taxi. A taxi that is a written-off vehicle will still be considered an eligible replacement taxi.
- amending section 7 to clarify that the authority may operate the scheme in rounds by publishing a notice on the authority's website.
- amending section 15 to provide guidance on the priority of considerations of applications.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the Act. The Act establishes QRIDA primarily to administer assistance schemes to foster the development of a more productive and sustainable rural and regional sector in Queensland. QRIDA may also support Queensland's economy by administering approved assistance schemes to assist primary producers, small business, and other sectors during periods of temporary difficulty, or to otherwise benefit the Queensland economy.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

QRIDA may only give financial assistance under an approved scheme that sets out the scheme in detail. The only way to amend the details of the Scheme is to amend the *Rural and Regional Adjustment Regulation 2011*.

While there is the possibility of continuing the scheme beyond the stated end date of 30 June 2023 without regulatory amendment within the limits of the provided funding pool, the Amendment Regulation provides clarity and a broadening of eligibility criteria that cannot be achieved through non-regulatory means.

Benefits and costs of implementation

The Queensland Government has allocated a budget of \$21 million for 2019-2023 to the Scheme. No further funding is required for the extended operational period. The total cost to the Queensland Government will depend on the level of uptake.

The Amendment Regulation will benefit the Queensland community by incentivising and facilitating growth in modern, wheelchair-accessible transport options. The Amendment Regulation will also benefit the taxi industry by providing avenues to return to operation after the economic impact of the COVID-19 pandemic, as well as indirectly supporting businesses that modify vehicles to make them more accessible.

Consistency with fundamental legislative principles

The Amendment Regulation has been drafted with regard to, and is generally consistent with, fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*. A potential breach of fundamental legislative principle (FLP) is addressed below.

Legislation should have sufficient regard to the rights and liberties of individuals - *Legislative Standards Act 1992, section 4(2)(a)*

Section 11(3A) of the Amendment Regulation may engage the FLP in section 4(2)(a) of the *Legislative Standards Act 1992* in that it provides conditions of agreement to participation in the Scheme which require applicants replacing a conventional taxi with a WAT to retain the funded vehicle as the stated vehicle on the licence used during application. This potentially breaches the FLP requiring legislation not to unduly restrict ordinary activity without sufficient justification, including the right to conduct business without interference.

The restriction is unchanged from the current operation of the funding program and is justified on the basis that the objective of the Scheme is to replace aging WATs, as well as increasing the fleet capability by providing new, additional accessible vehicles. The restriction is an important safeguard to ensure the proper administration of public funding to deliver on its objectives. In particular, this eligibility criterion was implemented to provide for an increase in the number of WATs operating in Queensland and it is important to put in place provisions to support the provision of funding to ensure this purpose is achieved for a minimum of three years.

Consultation

Consultation on the operation of the scheme and barriers to participation has been conducted by the Department of Transport and Main Roads with the Taxi Council of Queensland (TCQ), 13 Cabs, Black and White Cabs, as well as individual operators seeking to apply for funding.

The consultation was conducted throughout the current life of the scheme by face to face and online meetings with industry stakeholders since the Scheme commenced. Feedback was sought and obtained from TCQ, Black and White Cabs and 13cabs in meetings in late 2021 and early 2022 as well as part of regular discussions about challenges with the

provision of WAT services. In addition, information was gathered from individual operators who did not meet the initial criteria and may have been unsuccessful in application.

While not all suggestions to broaden the scheme were progressed, such as the proposal to allow the funding for purchase of second-hand vehicles, DTMR worked cooperatively with all parties to consider the issues raised regarding the operation of the Scheme and has responded to those with a series of amendments which would realise maximum exposure to eligible participants, and increase the efficiency of the accessible taxi fleet.

Stakeholders were supportive of the proposed amendments to broaden eligibility criteria and extending the operational period of the scheme. DTMR has not engaged in consultation with industry stakeholders on the proposal to provide clarity on vehicle eligibility because this confirms existing scheme policy and is considered an important element of the administration of public funding.

The Department of Agriculture and Fisheries has consulted the Office of Best Practice Regulation (OBPR), within Queensland Treasury, on a Preliminary Impact Assessment. OBPR provided advice that no further assessment is required under the *Queensland Government Guide to Better Regulation* as the Amendment Regulation is unlikely to result in significant adverse impacts.