

THIS PUBLIC BILL has this day been read a Third time and passed

*The Clerk of the Parliament.*

*Legislative Assembly Chamber,  
Brisbane, May 2017*



Queensland

**No.  
A BILL for**

**An Act to amend the Transport Operations (Passenger Transport) Act 1994, the Transport Operations (Road Use Management) Act 1995 and the Acts mentioned in schedule 1 for particular purposes**





Queensland

# Transport and Other Legislation (Personalised Transport Reform) Amendment Bill 2017

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**2017**

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**A Bill**

for

**An Act to amend the *Transport Operations (Passenger Transport) Act 1994*, the *Transport Operations (Road Use Management) Act 1995* and the Acts mentioned in schedule 1 for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Transport and Other Legislation (Personalised Transport Reform) Amendment Act 2017*.

### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

## **Part 2 Amendment of Transport Operations (Passenger Transport) Act 1994**

### **3 Act amended**

This part amends the *Transport Operations (Passenger Transport) Act 1994*.

### **4 Amendment of s 12 (What is operator accreditation)**

(1) Section 12(1), after ‘passenger service’—

*insert—*

of a particular kind

(2) Section 12(1), ‘the service’—

*omit, insert—*

a service of that kind

**5 Replacement of s 15 (Duties of operators)**

Section 15—

*omit, insert—*

**15 Duty of operator**

A person must not provide, as an operator, a public passenger service of a kind for which operator accreditation is required under this Act unless the person is an accredited operator for a service of that kind.

Maximum penalty—160 penalty units.

**6 Amendment of s 24 (What is driver authorisation)**

Section 24(1)—

*omit, insert—*

- (1) ***Driver authorisation*** is a qualification a driver of a vehicle used to provide a public passenger service of a particular kind must attain and maintain to drive a vehicle to provide a service of that kind.

**7 Amendment of s 26 (Driver authorisation standards)**

Section 26(a), ‘operate’—

*omit, insert—*

drive

**8 Replacement of s 27 (Driver must hold appropriate authorisation)**

Section 27—

*omit, insert—*

**27 Driver must hold appropriate authorisation**

- (1) A person must not drive a vehicle to provide a

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public passenger service of a kind for which driver authorisation is required under this Act unless the person is an authorised driver for a service of that kind.

Maximum penalty—

- (a) for a first offence—100 penalty units; or
- (b) for a second or later offence—200 penalty units.

*Note—*

See sections 150B and 150C in relation to the application of the penalty for this subsection.

- (2) A person must not provide a public passenger service of a kind for which driver authorisation is required under this Act unless the person uses drivers who are authorised drivers for a service of that kind.

Maximum penalty—160 penalty units.

- (3) For subsection (2), a person provides a public passenger service if the person—
  - (a) is an operator of the service; or
  - (b) for a booked hire service—provides a booking service for the service.

## **9 Amendment of s 29 (Granting, renewing or refusing driver authorisation)**

Section 29(4)(a), from ‘about’—

*omit, insert—*

about—

- (i) the kinds of public passenger services for which the holder of the authorisation is an authorised driver; or

- 
- (ii) another transport authority held by the person under a prescribed transport Act, if allowed under that Act; or

**10 Amendment of s 29A (Restricted driver authorisation)**

Section 29A(1), ‘person to operate’—

*omit, insert—*

person to drive

**11 Replacement of s 35 (Obligation to notify accredited operator of suspension or cancellation of licence etc.)**

Section 35—

*omit, insert—*

**35 Driver’s obligation to notify of suspension or cancellation of licence etc.**

- (1) This section applies to a person who is an authorised driver and who drives a vehicle to provide a public passenger service if—
  - (a) the person is not the operator of the service; or
  - (b) for a booked hire service—another person provides booking services for the service.
- (2) The person must immediately give written notice to the operator or other person if—
  - (a) a licence or other authorisation required under another Act to drive a vehicle of a type to which the person’s driver authorisation relates is suspended or cancelled; or
  - (b) if the public passenger service is of a kind for which driver authorisation is required under this Act—the person’s driver authorisation is suspended or cancelled.

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Maximum penalty—100 penalty units.

**12 Amendment of s 35H (Restricted written release of information)**

Section 35H(3), ‘by electronic communication’—

*omit, insert—*

electronically

**13 Omission of ch 4A (Taxi service bailment agreements)**

Chapter 4A—

*omit.*

**14 Insertion of new s 36AA**

Chapter 5—

*insert—*

**36AA No compensation for changes to market entry restrictions**

- (1) Compensation is not payable if a regulation under section 36(1) is made, amended or repealed.
- (2) Also, compensation is not payable if, because of a regulation mentioned in subsection (1)—
  - (a) anything previously permitted is prohibited or regulated; or
  - (b) anything previously prohibited is permitted or regulated; or
  - (c) anything previously regulated is no longer regulated or regulated in a different way.
- (3) This section does not prevent a regulation providing for payment of compensation.



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**15 Amendment of s 39 (Scope of service contracts)**

(1) Section 39(b)—

*omit.*

(2) Section 39(c) and (d)—

*renumber* as section 39(b) and (c).

**16 Omission of ch 6, pt 3 (Administration of taxi services)**

Chapter 6, part 3—

*omit.*

**16A Insertion of new s 80BA**

Chapter 7—

*insert—*

**80BA Security cameras**

(1) A regulation may provide for—

(a) the use of security cameras in vehicles used to provide taxi services or booked hire services; and

(b) access to, and the disclosure and use of, information (including sound and images) captured by the cameras for purposes related to—

(i) the safety and security of the services; and

(ii) generally, a police officer performing the officer's duties.

(2) In this section—

*booked hire service* means a public passenger service that, under a regulation, is a booked hire service.

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**17 Omission of chs 7, 7A and 8**

Chapters 7, 7A and 8—  
*omit.*

**18 Insertion of new ch 7**

After chapter 6—  
*insert—*

**Chapter 7 Personalised  
transport services**

**Part 1 Preliminary**

**68 Main purpose of chapter**

The main purpose of this chapter is to regulate taxi services, booked hire services and booking services to ensure—

- (a) taxi services and booked hire services are provided safely using vehicles that are safe; and
- (b) taxi services, booked hire services and booking services are accessible to members of the public generally and to particular classes of people, including, for example, people with disability, older people and people in regional and remote areas of Queensland; and
- (c) all persons who are involved in providing taxi services, booked hire services and booking services are suitable to provide the services and are accountable.

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## 69 Definitions for chapter

In this chapter—

*hire on-the-spot*, in relation to a vehicle and its driver, means arranging, in person, the hire of the vehicle and its driver for a journey to start immediately or shortly after the vehicle and its driver are hired.

*relevant transport legislation* means the following legislation—

- (a) this Act;
- (b) the *Transport Operations (Road Use Management) Act 1995*;
- (c) the *Motor Accident Insurance Act 1994*.

## 70 What is a *taxi service*

- (1) A *taxi service* is a public passenger service for a journey that starts in Queensland—
  - (a) provided by the hire of—
    - (i) a motor vehicle that has not more than 12 seating positions, including the driver's position; and
    - (ii) a person to drive the vehicle; and
  - (b) under which the vehicle plies or stands for hire by members of the public in a public place.
- (2) For this chapter, the circumstances in which a vehicle plies or stands for hire by members of the public in a public place include the circumstances in which the vehicle and its driver are made available for hire on-the-spot by members of the public, including, for example, by—
  - (a) the vehicle standing at a taxi rank or other place where members of the public might

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reasonably expect taxis to be available for hire on-the-spot; or

- (b) the vehicle having a sign, marking, light or other thing on it that might reasonably indicate to members of the public it is a taxi or another vehicle available for hire on-the-spot.
- (3) For subsection (1), it does not matter where the journey ends or if the journey involves leaving and re-entering Queensland.

## **71 What is a *booked hire service***

- (1) A *booked hire service* is a public passenger service for a journey that starts in Queensland—
- (a) provided by the hire, other than the hire on-the-spot, of—
    - (i) a motor vehicle that has not more than 12 seating positions, including the driver’s position, or is a limousine; and
    - (ii) a person to drive the vehicle; and
  - (b) that may be used by the public, or a substantial part of the public, whether or not use of the service is subject to compliance with a condition.

*Example of a condition for using a public passenger service—*

holding an account or membership to use the service

- (2) For subsection (1), it does not matter where the journey ends or if the journey involves leaving and re-entering Queensland.

## **72 What is a *booking service***

- (1) A *booking service* is a service under which a

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person arranges a booking for the person or another person to drive a motor vehicle to provide a booked hire service.

- (2) A person arranges a booking for the person to drive a motor vehicle to provide a booked hire service by accepting the booking.
- (3) A person arranges a booking for another person to drive a motor vehicle to provide a booked hire service—
  - (a) if the person uses a booking system that requires the other person to accept the booking—by arranging for the booking to be accepted by the other person; or
  - (b) otherwise—by assigning the booking to the other person.
- (4) For this section, a booking may be accepted by, or assigned to, a person in any way, including, for example—
  - (a) in person; or

*Example of a booking accepted in person—*

The driver of a motor vehicle accepts, in person, a booking from a person to drive the person for a journey to start in 2 days.

- (b) by telephone or other telecommunication device; or
- (c) by using an electronic booking system.

*Example of an electronic booking system—*

an electronic system that offers bookings to drivers and allows drivers to use an app on an electronic device to accept bookings

- (5) Also, for this section, it does not matter if the person who arranges a booking is in another State or a place that is outside Australia.

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### **73 When a person *provides* a taxi service or booked hire service**

For this chapter, a person *provides* a taxi service or booked hire service using a motor vehicle if the person—

- (a) is an operator of the service; or
- (b) drives the vehicle; or
- (c) for a booked hire service—provides a booking service for the service.

## **Part 2 Taxi services and booked hire services**

### **Division 1 Providing services**

#### **74 Taxi service may only be provided using a taxi**

- (1) A person must not provide a taxi service using a motor vehicle that is not a taxi.

Maximum penalty—

- (a) if the person is the driver of the motor vehicle—
  - (i) for a first offence—200 penalty units; or
  - (ii) for a second or later offence—400 penalty units; or
- (b) otherwise—
  - (i) for a first offence—200 penalty units; or
  - (ii) for a second offence—400 penalty units; or

(iii) for a third or later offence—3000 penalty units.

- (2) A person in control of a motor vehicle that is not a taxi must not engage in conduct that involves the vehicle plying or standing for hire by members of the public in a public place.

Maximum penalty—

- (a) for a first offence—200 penalty units; or  
(b) for a second or later offence—400 penalty units.

*Note—*

See section 70(2) for particular circumstances in which a vehicle plies or stands for hire.

- (3) Subsection (2) does not apply if the motor vehicle has more than 12 seating positions, including the driver's position.
- (4) This section does not apply to a taxi service prescribed under a regulation as a taxi service to which this section does not apply.

*Note—*

See sections 150B and 150C in relation to the application of the penalty for subsections (1) and (2).

## **75 Restriction on providing booked hire service for particular taxi service area**

- (1) This section applies if a regulation under section 36 declares that a booked hire service is to be provided in a stated taxi service area with the market entry restriction of using a motor vehicle that is a taxi or limousine.
- (2) A person must not provide a booked hire service for a journey that starts in the taxi service area using a motor vehicle that is not a taxi or limousine.

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Maximum penalty—

- (a) if the person is the driver of the motor vehicle—
  - (i) for a first offence—200 penalty units; or
  - (ii) for a second or later offence—400 penalty units; or
- (b) otherwise—
  - (i) for a first offence—200 penalty units; or
  - (ii) for a second offence—400 penalty units; or
  - (iii) for a third or later offence—3000 penalty units.

*Note—*

See sections 150B and 150C in relation to the application of the penalty for this subsection.

- (3) For subsection (2), it does not matter where the journey ends or if the journey involves leaving and re-entering the taxi service area.

## **76 Booked hire service may only be provided using particular motor vehicle**

- (1) A person must not provide a booked hire service using a motor vehicle that is not a booked hire vehicle, taxi or limousine.

Maximum penalty—

- (a) if the person is the driver of the motor vehicle—
  - (i) for a first offence—160 penalty units; or
  - (ii) for a second or later offence—320 penalty units; or



- (b) otherwise—
  - (i) for a first offence—160 penalty units;  
or
  - (ii) for a second offence—320 penalty units;  
or
  - (iii) for a third or later offence—2400 penalty units.

*Note—*

See sections 150B and 150C in relation to the application of the penalty for this subsection.

- (2) This section does not apply to a booked hire service prescribed by regulation as a booked hire service to which this section does not apply.

## **77 Restriction on providing booked hire service requested using fixed booking device**

- (1) A person must not provide a booked hire service requested through a fixed booking device using a motor vehicle that is not a taxi.

Maximum penalty—

- (a) if the person is the driver of the motor vehicle—
  - (i) for a first offence—200 penalty units;  
or
  - (ii) for a second or later offence—400 penalty units;  
or
- (b) otherwise—
  - (i) for a first offence—200 penalty units;  
or
  - (ii) for a second offence—400 penalty units;  
or
  - (iii) for a third or later offence—3000 penalty units.

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*Note—*

See sections 150B and 150C in relation to the application of the penalty for this subsection.

(2) In this section—

*fixed booking device* means a device that is fixed at a place and has the primary function or purpose of allowing a person to request a booked hire service to be provided for a journey that starts at the place.

## **78 Booking service must be provided by authorised booking entity**

(1) A person must not provide a booking service for another person to drive a motor vehicle to provide a booked hire service unless the person is an authorised booking entity for the booked hire service.

Maximum penalty—

- (a) for a first offence—160 penalty units; or
- (b) for a second offence—320 penalty units; or
- (c) for a third or later offence—2400 penalty units.

(2) A person must not drive a motor vehicle to provide a booked hire service unless—

- (a) if the booking to provide the service was arranged by another person—the other person is an authorised booking entity for the service; or
- (b) if the booking to provide the service was arranged by the person—the person is an authorised booking entity for the service or is otherwise authorised to arrange the booking under a regulation.

Maximum penalty—

- (a) for a first offence—160 penalty units; or
- (b) for a second or later offence—320 penalty units.

*Note—*

See sections 150B and 150C in relation to the application of the penalty for subsections (1) and (2).

## **Division 2      Booking records for booked hire services**

### **79   Application of division**

This division does not apply to a booked hire service provided using a taxi.

### **80   What is a *booking record***

- (1) A *booking record* is a written record—
  - (a) of a booking for a booked hire service; and
  - (b) that contains the details of the booking prescribed by regulation.
- (2) For this division—
  - (a) a booking record may be made, kept, given, carried or produced for inspection electronically; and
  - (b) a booking record may be kept, carried or produced for inspection by keeping, carrying or producing for inspection a copy of the record.

### **81   Booking entity's obligations**

A person who provides a booking service for a booked hire service must—

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- (a) make a booking record for the booked hire service that is legible; and
- (b) if the person is not the driver of the motor vehicle to be used to provide the service—before the journey starts, give a copy of the booking record to the driver; and
- (c) keep the booking record for at least 2 years after the record is made; and
- (d) if asked by an authorised person—produce the booking record for inspection by the authorised person.

Maximum penalty—80 penalty units.

## **82 Driver's obligations**

- (1) The driver of a motor vehicle used to provide a booked hire service for a journey must, while providing the service, carry a booking record for the service.

Maximum penalty—80 penalty units.

- (2) For subsection (1), a motor vehicle is used to provide a booked hire service for a journey if the vehicle—
  - (a) is about to be used for the journey; or
  - (b) is being used for the journey; or
  - (c) has just been used for the journey.
- (3) If asked by an authorised person, the driver must immediately—
  - (a) produce the booking record for inspection by the authorised person; or
  - (b) allow the authorised person to enter the vehicle to read the booking record displayed on an electronic device if—

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- (i) it is not reasonably practicable for the authorised person to read the display from outside the vehicle; and
  - (ii) the authorised person tells the driver the authorised person needs to enter the vehicle to read the display.

Maximum penalty—80 penalty units.

- (4) If an authorised person enters a motor vehicle under subsection (3)(b), the authorised person—
  - (a) may remain in the vehicle for only the period of time that is reasonably necessary to read the display; and
  - (b) may inspect the vehicle, and anything in the vehicle, only to the extent that is reasonably necessary to read the display.

## **Part 3                      Safety duties**

### **Division 1                Preliminary**

#### **83 Definitions for part**

In this part—

*business practices* means the person's practices in running a business associated with providing a taxi service or booked hire service, including—

- (a) the operating policies and procedures of the business; and
- (b) the arrangements for preventing or minimising safety risks associated with the person's practices.

*fatigue* includes any of the following—

- (a) feeling sleepy;

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- (b) feeling physically or mentally tired, weary or drowsy;
- (c) feeling exhausted or lacking energy;
- (d) behaving in a way consistent with paragraph (a), (b) or (c).

***reasonably practicable***, in relation to a duty to ensure safety, means that which is, or was at a particular time, reasonably able to be done in relation to the duty, weighing up all relevant matters, including—

- (a) the likelihood of a safety risk, or damage to property, happening; and
- (b) the harm that could result from the risk or damage; and
- (c) what the person knows, or ought reasonably to know, about the risk or damage; and
- (d) what the person knows, or ought reasonably to know, about the ways of—
  - (i) removing or minimising the risk; or
  - (ii) preventing or minimising the damage; and
- (e) the availability and suitability of those ways; and
- (f) the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.

***safety law*** means—

- (a) the *Work Health and Safety Act 2011*; or
- (b) the Heavy Vehicle National Law (Queensland).

***safety risk*** means a risk to the safety of persons or property, including the safety of—

- (a) the drivers of, and passengers in, vehicles;  
and
- (b) persons or property in or in the vicinity of,  
or likely to be in or in the vicinity of, roads  
and public places, including other road  
users; and
- (c) vehicles and anything in them.

#### **84 Persons in chain of responsibility**

- (1) Each of the following persons is a *person in the chain of responsibility* for a taxi service or booked hire service—
  - (a) an operator of the service;
  - (b) the holder of a taxi service licence, limousine licence or booked hire service licence for a motor vehicle used to provide the service;
  - (c) the driver of a motor vehicle used to provide the service;
  - (d) a registered operator of a motor vehicle used to provide the service;
  - (e) a holder of a booking entity authorisation under which a person provides booking services for the service;
  - (f) another person who provides booking services for the service;
  - (g) if an authorised booking entity who provides booking services for the service is a foreign person—the entity’s local nominee.
- (2) In this section—  
*registered operator* see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

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## **85 Relationship with other safety laws**

- (1) If a provision of this part and a provision of another safety law deal with the same thing and it is possible to comply with both provisions, a person must comply with both provisions.
- (2) However, to the extent it is not possible for the person to comply with a provision of this part and a provision of another safety law dealing with the same thing, the person must comply with—
  - (a) the provision of the other safety law; or
  - (b) if, under the other safety law, the person is required to comply with a provision of another safety law—the provision of the other safety law.
- (3) Evidence of a contravention of this part is admissible in any proceeding for an offence against a provision of another safety law.
- (4) If an act, omission or circumstances constitute an offence under this part and another safety law, the offender is not liable to be punished more than once for the act, omission or circumstances.

## **Division 2 Principles**

### **86 Principle of shared responsibility**

- (1) The safety of activities associated with providing a taxi service or booked hire service is the shared responsibility of each person in the chain of responsibility for the service.
- (2) The level and nature of a person's responsibility for an activity depends on—
  - (a) the functions the person performs or is required to perform, whether exclusively or occasionally; and



- (b) the nature of the safety risks created by the carrying out of the activity; and
- (c) the person's capacity to control, eliminate or minimise the risks.

### **87 Principles applying to duties**

- (1) A person may have more than 1 duty because of the functions the person performs or is required to perform.
- (2) More than 1 person can concurrently have the same duty.
- (3) Each person must comply with the duty to the standard required under this part even if another person has the same duty.
- (4) If more than 1 person has a duty for the same matter, each person—
  - (a) is responsible for the person's duty in relation to the matter; and
  - (b) must discharge the person's duty to the extent to which the person—
    - (i) has the capacity to influence and control the matter; or
    - (ii) would have the capacity but for an agreement or arrangement purporting to limit or remove that capacity.
- (5) A person's duty can not be transferred to another person.
- (6) Compliance with relevant transport legislation or a safety law is not, of itself, evidence that a person has discharged a duty under this part.

## **Division 3 Nature of primary duties**

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## **88 Primary duty of care**

- (1) Each person in the chain of responsibility for a taxi service or booked hire service must ensure, so far as is reasonably practicable, the safety of the person's activities, including business practices and making decisions, relating to providing the service.
- (2) Without limiting subsection (1), each person in the chain of responsibility must—
  - (a) eliminate safety risks or, to the extent it is not reasonably practicable to eliminate safety risks, minimise the safety risks; and
  - (b) ensure the person's conduct does not directly or indirectly encourage another person, including another person in the chain of responsibility, to contravene a provision of relevant transport legislation relating to—
    - (i) providing a taxi service or booked hire service; or
    - (ii) a motor vehicle used to provide a taxi service or booked hire service.

## **89 Duty of executive officer of corporation**

- (1) If a corporation has a duty under section 88, an executive officer of the corporation must exercise due diligence to ensure the corporation complies with the duty.

Maximum penalty—the penalty under section 90, 91 or 91A for an offence relating to the duty under section 88 committed by an individual.
- (2) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) even if the corporation has not been proceeded against for, or convicted of, an offence

relating to the duty.

(3) In this section—

*due diligence* includes taking reasonable steps to—

- (a) acquire, and keep up to date, knowledge about the safe conduct of activities relating to providing taxi services or booked hire services; and
- (b) gain an understanding of—
  - (i) the nature of the corporation's activities relating to providing taxi services or booked hire services; and
  - (ii) the safety hazards and risks associated with those activities; and
- (c) ensure the corporation has, and uses, appropriate resources to eliminate or minimise those hazards and risks; and
- (d) ensure the corporation has, and implements, processes—
  - (i) to eliminate or minimise those hazards and risks; and
  - (ii) for receiving, considering, and responding in a timely way to, information about those hazards and risks and any incidents; and
  - (iii) for complying with the corporation's duty under section 88; and
- (e) verify the resources and processes mentioned in paragraphs (c) and (d) are being provided, implemented and used.

## **Division 4      Failing to comply with primary duties**

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## **90 Reckless conduct—category 1**

- (1) A person commits an offence if—
- (a) the person has a duty under section 88; and
  - (b) the person, without a reasonable excuse, engages in conduct related to the duty that exposes an individual, or class of individuals, to a risk of death or serious injury or illness; and
  - (c) the person is reckless to the risk.
- Maximum penalty—
- (a) for an individual—3000 penalty units or 5 years imprisonment; or
  - (b) for a corporation—30,000 penalty units.
- (2) The prosecution bears the burden of proving that the conduct was engaged in without reasonable excuse.

## **91 Failure to comply with duty—category 2**

- A person commits an offence if—
- (a) the person has a duty under section 88; and
  - (b) the person contravenes the duty; and
  - (c) the person's contravention exposes an individual, or class of individuals, to a risk of death or serious injury or illness.
- Maximum penalty—
- (a) for an individual—1500 penalty units; or
  - (b) for a corporation—15,000 penalty units.

## **91A Failure to comply with duty—category 3**

- A person commits an offence if—
- (a) the person has a duty under section 88; and

(b) the person contravenes the duty.

Maximum penalty—

- (a) for an individual—500 penalty units; or
- (b) for a corporation—5000 penalty units.

## **Division 5            Duties relating to fatigue management**

### **91B Duties relating to fatigue**

- (1) A person must not drive a motor vehicle being used to provide a taxi service or booked hire service while the person's ability to drive the motor vehicle safely is impaired by fatigue.

Maximum penalty—160 penalty units.

- (2) A person in the chain of responsibility for a taxi service or booked hire service must take all reasonable steps to ensure another person does not drive a motor vehicle to provide the service while the other person's ability to drive the motor vehicle safely is impaired by fatigue.

Maximum penalty—160 penalty units.

### **91C Regulation may impose other fatigue management duties or requirements**

- (1) A regulation may impose other duties or requirements on a person in the chain of responsibility for a taxi service or booked hire service about managing driver fatigue.
- (2) A regulation under subsection (1) may, for example, impose—
  - (a) standards about time spent driving a motor vehicle; and

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- (b) requirements about monitoring, recording and reporting about time spent driving a motor vehicle; and
- (c) requirements about using particular equipment or technology for managing fatigue; and
- (d) requirements for training drivers and other persons in the chain of responsibility about managing driver fatigue.

## **Part 4 Licences and authorisation for personalised transport services**

### **Division 1 Taxi service licences**

#### **91D What is a *taxi service licence***

A *taxi service licence* is a licence for a taxi service area issued by the chief executive under which the holder may provide taxi services and booked hire services using the motor vehicle stated in the licence.

#### **91E Original taxi service licence**

- (1) A taxi service licence that was in force immediately before the commencement (an *original taxi service licence*) continues in force as a taxi service licence under section 91D for the taxi service area stated in the licence.
- (2) An original taxi service licence is for the term, of not more than 5 years, stated in the licence.

- (3) An original taxi service licence must, at the request of the licence holder, be renewed for successive terms of 5 years if its conditions are complied with.
- (4) However, an original taxi service licence may be renewed for a shorter term if the applicant for renewal asks for a shorter term.

### **91F Issue of a taxi service licence**

- (1) The chief executive may issue a taxi service licence for a taxi service area.
- (2) However, before the chief executive issues a taxi service licence, the chief executive must, by public notice, invite offers to purchase the taxi service licence—
  - (a) stating the intention to issue the licence; and
  - (b) calling for offers for the taxi service licence.
- (3) The chief executive is not obliged to accept any offer for a taxi service licence.
- (4) A taxi service licence may be issued—
  - (a) for the term, of not more than 5 years, stated in the licence; and
  - (b) on a renewable or non-renewable basis.
- (5) For a taxi service licence issued on a renewable basis—
  - (a) the first term of the licence must be less than 5 years; and
  - (b) the licence may be renewed for 1 or more successive terms; and
  - (c) the sum of the terms of the licence must be not more than 5 years.
- (6) A taxi service licence issued on a non-renewable basis must not be renewed.

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- (7) A taxi service licence issued under this section is not transferable to another person.

### **91G Transfer of taxi service licence between taxi service areas**

- (1) The chief executive may amend a taxi service licence to change the taxi service area for the licence to another taxi service area if—
- (a) the holder of the licence successfully offers for a transfer to the other taxi service area following the calling of offers by public notice; or
  - (b) the taxi service areas are amalgamated; or
  - (c) the holder of the licence applies to transfer the licence to the other taxi service area.
- (2) Subsection (3) applies if, in the chief executive's opinion, the value of a taxi service licence increases because the licence is transferred to another taxi service area under subsection (1)(a) or (c).
- (3) The chief executive may require, as a condition of a transfer mentioned in subsection (1)(a) or (c), the holder of the taxi service licence to pay to the chief executive an amount representing the increase in value.
- (4) This section does not limit the power to make regulations about amending taxi service licences.

## **Division 2      Limousine licences**

### **91H What is a *limousine licence***

- (1) A *limousine licence* is a licence issued by the chief executive under which the holder may provide booked hire services using the motor



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vehicle stated in the licence.

- (2) A limousine service licence that was in force immediately before the commencement continues in force as a limousine licence under subsection (1).
- (3) The chief executive must not issue any new limousine licences.
- (4) A limousine service area stated in a limousine licence has no effect.

### **91I Term of limousine licence**

- (1) A limousine licence is for the term, of not more than 5 years, stated in the licence.
- (2) Subject to subsection (4), a limousine licence may be renewed for successive terms of—
  - (a) for a special purpose limousine licence—1 year; or
  - (b) otherwise—5 years.
- (3) However, a limousine licence may be renewed for a shorter term if the applicant for the renewal asks for a shorter term.
- (4) A regulation may prescribe a day after which a special purpose limousine licence must not be renewed.
- (5) In this section—

*special purpose limousine licence* means a limousine licence that, immediately before the commencement, was a special purpose limousine service licence under this Act.

## **Division 3      Booked hire service licences**

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### **91J What is a *booked hire service licence***

A *booked hire service licence* is a licence issued by the chief executive under which the holder may provide booked hire services using the motor vehicle stated in the licence.

### **91K Issuing or refusing booked hire service licence**

- (1) A regulation may provide for issuing, or refusing to issue, booked hire service licences.
- (2) Without limiting subsection (1), a regulation may—
  - (a) state the circumstances in which the chief executive may refuse to issue a person a booked hire service licence; and
  - (b) provide for the form and contents of a booked hire service licence.

### **91L Term of booked hire service licence**

- (1) A booked hire service licence is for a term of—
  - (a) the period prescribed by regulation; or
  - (b) if no period is prescribed—the period of not more than 1 year stated in the licence.
- (2) A booked hire service licence is issued on a non-renewable basis and must not be renewed.
- (3) However, before a booked hire service licence expires, the holder of the licence may apply for another booked hire service licence to replace the expiring licence.

### **91M Booked hire service licence not transferable**

A booked hire service licence is not transferable to another person.

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## **Division 4            General provisions for licences**

### **91N Application of division**

This division applies for the following licences—

- (a) a taxi service licence;
- (b) a limousine licence;
- (c) a booked hire service licence.

### **91O Conditions of licence**

- (1) A licence is subject to the conditions stated in it by the chief executive.
- (2) The holder of a licence and the operator of a taxi service or booked hire service provided using a motor vehicle stated in the licence must not contravene a condition of the licence.

Maximum penalty for subsection (2)—40 penalty units.

### **91P Amendment of licence**

- (1) A regulation may authorise the chief executive to amend the conditions of a licence if the chief executive is satisfied the amendment is necessary for improving public passenger services in the public interest.
- (2) A regulation may also authorise the amendment of a licence in other circumstances and make other provision about amending a licence.

### **91Q Notice to driver about licence**

- (1) The operator of a taxi service or booked hire service provided using a motor vehicle must give

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each driver of the vehicle a written notice stating the following information for the licence for the vehicle—

- (a) the details of the vehicle stated in the licence;
- (b) any conditions of the licence;
- (c) for a taxi service licence—the taxi service area for the licence.

Maximum penalty—40 penalty units.

- (2) The driver of a motor vehicle being used to provide a taxi service or booked hire service must, if asked by an authorised person, produce the notice for inspection by the authorised person unless the driver has a reasonable excuse.

Maximum penalty—20 penalty units.

- (3) A notice may be given, or produced for inspection, under this section electronically.

### **91R Vehicle stated in licence**

- (1) The motor vehicle stated in a licence must comply with the requirements for the vehicle (the *vehicle requirements*) prescribed by regulation.
- (2) To the extent a vehicle requirement is about the type of motor vehicle, subsection (1) does not apply to a motor vehicle stated in a limousine licence if the motor vehicle was stated in the licence immediately before the commencement.
- (3) A regulation may allow—
  - (a) the holder of a licence to apply to the chief executive to change the motor vehicle stated in the licence to another vehicle that complies with the vehicle requirements; and
  - (b) a vehicle that complies with the vehicle requirements, other than the vehicle stated

in a licence, to be used under the licence in stated circumstances and on stated conditions.

### **91S Transfer, lease or surrender of licence**

- (1) A regulation may provide for—
  - (a) an original taxi service licence or limousine licence (other than a special purpose limousine licence) to be transferred to another person; or
  - (b) a licence to be leased or surrendered.
- (2) A special purpose limousine licence is not transferable to another person.
- (3) In this section—  
*special purpose limousine licence* see section 91I(5).

### **91T Suspending and cancelling licence**

- (1) A regulation may provide for suspending and cancelling a licence.
- (2) Without limiting subsection (1), a regulation may authorise the chief executive to—
  - (a) suspend or cancel a person's licence if the person contravenes—
    - (i) a condition of the licence; or
    - (ii) a provision of relevant transport legislation relating to providing a taxi service or booked hire service or a motor vehicle used to provide a taxi service or booked hire service; or
  - (b) immediately suspend a person's licence if—

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- (i) the vehicle is required to comply with the vehicle requirements prescribed under section 91R(1) and the vehicle does not comply with the requirements; or
- (ii) the chief executive considers it necessary in the public interest.

### **91U Register of licences**

- (1) The chief executive must keep a register of licences.
- (2) The register must contain at least the following particulars for each licence—
  - (a) the holder's name and contact details;
  - (b) the number of the licence;
  - (c) the day the licence takes effect and expires;
  - (d) details of the vehicle stated in the licence;
  - (e) for a taxi service licence—the taxi service area for the licence;
  - (f) any conditions of the licence.
- (3) The register may be kept in a form, including electronic form, the chief executive considers appropriate.
- (4) The chief executive may publish information from the register on the department's website including, for example—
  - (a) the number of a licence; and
  - (b) details of the vehicle stated in a licence.
- (5) However, the chief executive must not publish information from the register about an individual.

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## **Division 5      Booking entity                                  authorisations**

### **Subdivision 1   Booking entity                                  authorisations generally**

#### **91V What is a *booking entity authorisation* and an *authorised booking entity***

- (1) A *booking entity authorisation* is an authority under which a person may provide booking services for a booked hire service.
- (2) A person is an *authorised booking entity* for a booked hire service if the person holds a booking entity authorisation for the booked hire service.

#### **91W Granting, renewing or refusing booking entity                                  authorisation**

- (1) A regulation may provide for granting, renewing, or refusing to grant or renew, a booking entity authorisation.
- (2) If an applicant for a booking entity authorisation is a foreign person, the application for the booking entity authorisation must include—
  - (a) the applicant's nomination of its representative under section 91ZD; and
  - (b) any other information required by the chief executive.
- (3) Without limiting subsection (1), a regulation may—
  - (a) state the circumstances in which the chief executive may refuse to grant a person a booking entity authorisation or renew a person's authorisation, including, for

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example, that the person or another relevant person has been charged with, or convicted of, a disqualifying offence; and

- (b) provide for an authorising document; and
- (c) provide for the form and contents of an authorising document.

### **91X Term of booking entity authorisation**

A booking entity authorisation is for the term, of not more than 5 years, stated in the authorising document.

### **91Y Conditions of booking entity authorisation**

- (1) A booking entity authorisation is subject to the conditions stated in the authorising document by the chief executive.
- (2) An authorised booking entity must not contravene a condition of the entity's booking entity authorisation.

Maximum penalty—40 penalty units.

### **91Z Amendment of booking entity authorisation**

- (1) A regulation may authorise the chief executive to amend the conditions of a booking entity authorisation if the chief executive is satisfied the amendment is necessary for improving booking services for booked hire services in the public interest.
- (2) A regulation may also authorise the amendment of a booking entity authorisation in other circumstances and make other provision about amending a booking entity authorisation.



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### **91ZA Suspension and cancellation of booking entity authorisation**

- (1) A regulation may provide for suspending and cancelling a booking entity authorisation.
- (2) Without limiting subsection (1), a regulation may authorise the chief executive to—
  - (a) suspend or cancel a person’s booking entity authorisation if—
    - (i) the person or, for a person who is a foreign person, the person’s local nominee contravenes a condition of the authorisation; or
    - (ii) the person or, for a person who is a foreign person, the person’s local nominee contravenes a provision of relevant transport legislation relating to providing a booked hire service or a motor vehicle used to provide a booked hire service; or
    - (iii) the person or another relevant person has been charged with, or convicted of, a disqualifying offence; and
  - (b) immediately suspend a person’s booking entity authorisation if—
    - (i) for a person who is a foreign person—the person does not have a local nominee; or
    - (ii) the person or, for a person who is a foreign person, the person’s local nominee takes steps to avoid detection of, or prosecution for, an offence committed by the person or another person in relation to providing a booked hire service or booking service for a booked hire service; or

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(iii) the chief executive considers it necessary in the public interest.

### **91ZB Transfer, lease or surrender**

- (1) A booking entity authorisation is not transferable to another person and can not be leased.
- (2) A regulation may provide for a booking entity authorisation to be surrendered.

## **Subdivision 2 Local nominee**

### **91ZC Application of subdivision**

This subdivision applies if an authorised booking entity is a foreign person.

### **91ZD Requirement for local nominee**

- (1) The authorised booking entity must nominate 1 person to be its representative for the purposes of this Act (the entity's *local nominee*).
- (2) The nominated person must be—
  - (a) an individual who usually lives in Australia; or
  - (b) a corporation incorporated in Australia.
- (3) The nomination must—
  - (a) be given to the chief executive in the approved form; and
  - (b) include the nominated person's signed written consent to the nomination.

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### **91ZE Local nominee is liable for offence against the Act**

- (1) If the authorised booking entity commits an offence against this Act, the entity's local nominee is taken to have also committed the offence.
- (2) If the authorised booking entity is a corporation, the entity's local nominee, on conviction of an offence under subsection (1), is liable to the penalty that applies for a corporation convicted of the offence, whether or not the local nominee is an individual or a corporation.

*Note—*

See the *Penalties and Sentences Act 1992*, section 181B in relation to fines for a corporation for offences for which a fine for a corporation is not expressly stated.

- (3) The local nominee may be proceeded against for, and convicted of, the offence whether or not the authorised booking entity has been proceeded against for, or convicted of, the offence.
- (4) This section does not affect—
  - (a) the liability of the authorised booking entity for the offence; or
  - (b) the liability, under the Criminal Code, chapter 2, of any person for the offence.

### **91ZF Giving document or information**

- (1) A notice, direction, report or other document is given to the authorised booking entity under this Act by giving the notice, direction, report or other document to the entity's local nominee.
- (2) A notice or other document, other than a nomination under section 91ZD(3), or information given to the chief executive under this Act by an authorised booking entity's local

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nominee is taken to have been given to the chief executive by the authorised booking entity.

### **Subdivision 3 General provisions**

#### **91ZG Obligation to keep and provide information**

- (1) An authorised booking entity must keep the information prescribed by regulation about the following matters, in the way and for the period prescribed by regulation—
  - (a) the booking services provided by the entity;
  - (b) booked hire services for which the entity provides booking services.

Maximum penalty—150 penalty units.

- (2) An authorised booking entity must provide the information the entity must keep under subsection (1) to the chief executive, in the way and at the times prescribed by regulation.

Maximum penalty—150 penalty units.

- (3) Information given to the chief executive under this section is not admissible in a civil, criminal or administrative proceeding other than a proceeding about complying with subsection (1) or (2).

#### **91ZH Register of booking entity authorisations**

- (1) The chief executive must keep a register of booking entity authorisations.
- (2) The register must contain at least the following particulars for each booking entity authorisation—
  - (a) the authorised booking entity's name, business name (if any) and contact details;

- (b) the number of the authorisation;
  - (c) the day the authorisation takes effect and expires;
  - (d) if the entity is a foreign person—the name, business name (if any) and contact details of the entity’s local nominee;
  - (e) any conditions of the authorisation.
- (3) The register may be kept in a form, including electronic form, the chief executive considers appropriate.
- (4) The chief executive may publish information from the register on the department’s website, including, for example, the following—
- (a) an authorised booking entity’s name and business name (if any);
  - (b) if an authorised booking entity is a foreign person—the name and business name (if any) of the entity’s local nominee;
  - (c) the identifying number of a booking entity authorisation.
- (5) However, the chief executive must not publish information from the register about an individual other than the information mentioned in subsection (4)(a) and (b).

## **Part 5                      Enforcement**

### **Division 1                Driving sanctions for driver offences**

#### **91ZHA Application of division**

- (1) This division applies if a person has—

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- (a) committed 3 or more relevant driver offences within a 3-year period; or
- (b) if a driving sanction has previously been imposed on the person under section 91ZJ—committed a further 3 or more relevant driver offences within a later 3-year period.

*Note—*

See section 150C for when a person commits an offence for this section.

- (2) For subsection (1), if a person committed 2 or more relevant driver offences because of conduct the person engaged in at a particular time, the person is taken to have committed only 1 relevant driver offence at the time.
- (3) It does not matter whether a 3-year period mentioned in subsection (1)(b) started before, during or after the period the driving sanction mentioned in that subsection was in effect.
- (4) In this section—

*conduct* means an act or an omission to perform an act.

### **91ZI What is a *relevant driver offence***

- (1) An offence committed by the driver of a motor vehicle against any of the following provisions is a *relevant driver offence*—
  - (a) section 27(1);
  - (b) section 74(1) or (2);
  - (c) section 75(2);
  - (d) section 76(1);
  - (e) section 77(1);
  - (f) section 78(2);

- 
- (g) section 82(1) or (3).
- (2) Also, an offence committed by the driver of a motor vehicle is a *relevant driver offence* if the offence is committed—
- (a) against a provision prescribed by regulation to be a provision to which this section applies; and
  - (b) while the driver is providing a taxi service or booked hire service.

### **91ZJ Chief executive may impose driving sanction**

- (1) The chief executive may take the following action in relation to the person (each a *driving sanction*)—
- (a) if the person holds a Queensland driver licence—suspend the person’s Queensland driver licence;
  - (b) if the person’s authority to drive on a Queensland road is under a driver licence other than a Queensland driver licence—suspend the person’s authority under the licence to drive on a Queensland road;
  - (c) if the person does not hold a driver licence—disqualify the person from holding or obtaining a driver licence.
- (2) A driving sanction imposed on a person under subsection (1) has effect for the following period—
- (a) for a first driving sanction—1 month;
  - (b) for a second or later driving sanction—3 months.
- (3) The chief executive imposes a driving sanction under subsection (1) by giving a person a written

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notice stating the following—

- (a) the nature of the driving sanction being imposed;
- (b) the day the sanction starts, which must be at least 7 days after the day the notice is given;
- (c) the day the sanction ends;
- (d) the reasons for the sanction;
- (e) that the person may not apply to the chief executive for reconsideration of the decision or to QCAT for a review of the decision.

### **91ZK General effect of suspension of driver licence**

- (1) This section applies if the chief executive suspends a person's Queensland driver licence under section 91ZJ.
- (2) While the person's driver licence is suspended, the person is not eligible to apply for a special hardship order under the *Transport Operations (Road Use Management) Act 1995*.

*Note—*

A special hardship order under the *Transport Operations (Road Use Management) Act 1995* authorises a person whose driver licence has been suspended to continue to drive motor vehicles in stated circumstances. See section 150(1A) of that Act.

- (3) Subsection (2) applies despite the *Transport Operations (Road Use Management) Act 1995*.
- (4) The suspension of the person's driver licence—
  - (a) is not affected by the renewal or replacement of the suspended licence; and
  - (b) does not affect the suspension or cancellation of the licence under another Act, whether by operation of law or the



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exercise of a power by a court or another person.

### **91ZL Effect of suspension of driver licence on vehicle insurance**

- (1) The suspension of a person's driver licence under this Act does not terminate a vehicle insurance policy.
- (2) Also, a claim under a vehicle insurance policy can not be refused only because a person's driver licence is suspended under this Act.
- (3) This section applies despite anything to the contrary in a vehicle insurance policy or any other agreement.
- (4) In this section—  
*vehicle insurance policy*—
  - (a) means a policy of insurance for damage or loss caused by, or arising from, the use or operation of a vehicle; but
  - (b) does not include a CTP insurance policy under the *Motor Accident Insurance Act 1994*.

## **Division 2      Audits**

### **91ZM Purpose of division**

The purpose of this division is to allow the chief executive or an authorised person to carry out an audit of a person in the chain of responsibility for a taxi service or booked hire service for either or both of the following purposes—

- (a) to assess the person's compliance with relevant transport legislation in relation to—

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- (i) providing the service; or
  - (ii) a motor vehicle used to provide the service;
- (b) to verify information given to the chief executive about the person's business activities relating to providing the service.

### **91ZN Audit notice**

- (1) The chief executive or an authorised person may give a person in the chain of responsibility for a taxi service or booked hire service a written notice (an *audit notice*) requiring the person—
- (a) to allow the chief executive or authorised person to carry out an audit, within the period stated in the notice, of the person's business activities for a purpose mentioned in section 91ZM; and
  - (b) to enable the chief executive or authorised person to carry out the audit, to cooperate with every reasonable requirement of the chief executive or authorised person.
- (2) An audit notice must state the following—
- (a) the purpose of the audit;
  - (b) the period during which the audit is to be carried out;
  - (c) that a report of the audit will be given to the person;
  - (d) other matters prescribed by regulation.
- (3) The chief executive may give a person an audit notice as frequently as the chief executive reasonably requires for a purpose mentioned in section 91ZM.

### **91ZO Failure to comply with audit notice**

A person who is given an audit notice must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

### **91ZP Audit report**

- (1) As soon as practicable after an audit is carried out, the chief executive must give the person whose business activities were audited a report about the audit.
- (2) An audit report must include the matters prescribed by regulation.

### **91ZQ Direction to comply**

- (1) This section applies if an audit report identifies that the person whose business activities were audited has not complied with a provision of relevant transport legislation in relation to—
  - (a) providing a taxi service or booked hire service; or
  - (b) a motor vehicle used to provide a taxi service or booked hire service.
- (2) The chief executive or an authorised person may give the person a written direction to—
  - (a) if the person's noncompliance mentioned in subsection (1) exposes an individual to a risk of death or serious injury or illness—
    - (i) immediately comply with the provision of relevant transport legislation; and
    - (ii) take the action stated in the direction to remedy the noncompliance; or

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- (b) otherwise—comply with the provision of relevant transport legislation, within the period, of not less than 5 business days, stated in the direction.
- (3) A direction must—
  - (a) identify the noncompliance; and
  - (b) state that failure to comply with the direction, without a reasonable excuse, is an offence; and
  - (c) state the direction does not relieve the person from the obligation to comply with another provision of relevant transport legislation.
- (4) The chief executive may, by written notice, extend the period for complying with a provision of relevant transport legislation for a direction given under subsection (2)(b).
- (5) The person to whom a direction is given under subsection (2) must not contravene the direction unless the person has a reasonable excuse.

Maximum penalty—

- (a) for contravention of a direction mentioned in subsection (2)(a)—320 penalty units; or
- (b) otherwise—160 penalty units.

## **Division 3      Other offences**

### **91ZQA Avoiding detection or prosecution**

- (1) A person must not take steps to avoid detection of, or prosecution for, conduct that involves the commission of a chapter 7 offence by the person or another person.

Maximum penalty—3000 penalty units.

(2) A person may be convicted of an offence against subsection (1) in relation to a person's conduct even if no one has been proceeded against for, or convicted of, the offence involving the conduct.

(3) In this section—

*chapter 7 offence* means an offence against a provision of this chapter.

*conduct* means an act or an omission to perform an act.

*take steps*, to do something, includes organise, plan, facilitate, support, engage in, or otherwise conspire to take steps in, doing the thing.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 91ZQB, to have also committed the offence.

### **91ZQB Executive officer may be taken to have committed offence**

(1) If a corporation commits an offence against section 91ZQA, an executive officer of the corporation is taken to have also committed the offence if—

(a) the officer authorised or permitted the corporation's conduct constituting the offence; or

(b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct constituting the offence.

(2) The executive officer may be proceeded against for, and convicted of, an offence against section 91ZQA whether or not the corporation has been proceeded against for, or convicted of, the offence.

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- (3) This section does not affect—
- (a) the liability of the corporation for the offence against section 91ZQA; or
  - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against section 91ZQA.

### **91ZR Charging more than maximum fare**

- (1) The chief executive may, by gazette notice, decide maximum fares for taxi services.
- (2) Also, the chief executive may, by gazette notice, decide maximum fares for booked hire services—
  - (a) for members of a personalised transport subsidy scheme under section 91ZY; or
  - (b) provided using a type of vehicle, or for a class of persons, prescribed by regulation; or
  - (c) mentioned in section 75.
- (3) A person must not charge more than the maximum fare for a taxi service or booked hire service to which a maximum fare under subsection (1) or (2) applies.

Maximum penalty—40 penalty units.

- (4) For subsection (3), a person charges a fare for a taxi service or booked hire service if the person decides or otherwise controls the amount of the fare, including, for example—
  - (a) by administering an electronic system that determines the amount automatically using a computer program or in another way; or
  - (b) by using a device to process payment of an amount that includes the amount of the fare.

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## **91ZS Charging more than maximum payment surcharge for fare**

- (1) A *payment surcharge* for a fare for a taxi service or booked hire service is an amount (however described) charged, in addition to the amount of the fare—
  - (a) for processing payment for the fare; or
  - (b) for paying the fare using one payment method rather than another.
- (2) A regulation may prescribe a maximum payment surcharge for a fare for a taxi service or booked hire service.
- (3) A person must not charge more than the maximum payment surcharge for a fare for a taxi service or booked hire service to which a maximum payment surcharge under subsection (2) applies.

Maximum penalty—40 penalty units.
- (4) For subsection (3), a person charges a payment surcharge for a fare for a taxi service or booked hire service if the person decides or otherwise controls the amount of the payment surcharge, including, for example—
  - (a) by administering an electronic system that determines the amount automatically using a computer program or in another way; or
  - (b) by using a device to process payment of an amount that includes the amount of the payment surcharge.

## **Part 6                    General provisions**

### **Division 1            Taxi service areas**

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### **91ZT Taxi service areas**

- (1) This section applies to a taxi service to which a regulation under section 36 applies.

*Note—*

Section 36 allows a regulation to declare that a public passenger service is to be provided with market entry restrictions.

- (2) The chief executive may, by gazette notice, declare a taxi service area.
- (3) The chief executive may, by gazette notice, fix the number of taxi service licences for a taxi service area.
- (4) In fixing the number of taxi service licences for a taxi service area, the chief executive—
  - (a) must consider whether there are enough taxi service licences for the area to meet public demand; and
  - (b) may take into account—
    - (i) the views of users of taxi services in the area; and
    - (ii) recent changes in travel patterns in the area; and
    - (iii) the types of taxi services or booked hire services available in the area; and
    - (iv) the performance of the existing taxi fleet in the area; and
    - (v) the productivity of the fleet.

### **91ZU Public passenger service starting in taxi service area for a taxi**

- (1) A person must not use a taxi to provide a public passenger service for a journey that starts in a taxi service area unless—



- (a) the taxi service area in which the journey starts is the taxi service area for the taxi; or
- (b) a condition of the taxi service licence otherwise authorises the taxi to be used to provide a public passenger service for the journey.

Maximum penalty—40 penalty units.

- (2) For subsection (1), it does not matter where the journey ends or if the journey involves leaving and re-entering the taxi service area.
- (3) This section does not apply to the use of a taxi to provide a public passenger service under a contract with a government entity.
- (4) In this section—

*government entity* means—

- (a) any State or the Commonwealth; or
- (b) a department, service, agency, authority, commission, corporation, instrumentality, board, office or other entity established for a government purpose of any State or the Commonwealth; or
- (c) a part of an entity mentioned in paragraph (b).

### **91ZV No compensation for changes to taxi service areas**

- (1) Compensation is not payable if the chief executive—
  - (a) does any of the following things under section 91ZT—
    - (i) declares a taxi service area;
    - (ii) amends or repeals the declaration of a taxi service area;

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- (iii) fixes the number of taxi service licences for a taxi service area;
    - (iv) amends the number of taxi service licences fixed for a taxi service area; or
  - (b) imposes or amends a condition of a taxi service licence to authorise the taxi to be used to provide a public passenger service for a journey under section 91ZU(1)(b).
- (2) Also, compensation is not payable if, because of a matter mentioned in subsection (1)—
  - (a) anything previously permitted is prohibited or regulated; or
  - (b) anything previously prohibited is permitted or regulated; or
  - (c) anything previously regulated is no longer regulated or regulated in a different way; or
  - (d) the value of a taxi service licence changes.
- (3) This section does not prevent a regulation providing for payment of compensation.

## **Division 2           Taxi industry security levy                                   and fund**

### **91ZW Annual taxi industry security levy payable**

- (1) The chief executive may impose a taxi industry security levy (the *security levy*) for a financial year on holders of taxi service licences for a prescribed taxi service area.
- (2) The purpose of the security levy is to contribute to the costs of improving the security of taxi services in the prescribed taxi service area.
- (3) The chief executive imposes the security levy by

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giving the holders written notice—

- (a) requiring the payment of the security levy;  
and
  - (b) stating the amount of the security levy and  
the date for payment.
- (4) The security levy is the amount prescribed by a regulation for the financial year.
- (5) A regulation must not increase the security levy for a financial year by more than the CPI percentage increase for the financial year.
- (6) The holders must pay the security levy on or before the date stated in the notice as the date for payment.
- (7) A levy amount not paid to the chief executive on or before the date for payment may be recovered by the chief executive as a debt.
- (8) In this section—

***CPI*** means the all groups consumer price index for Brisbane published by the Australian statistician.

***CPI percentage increase***, for a financial year, means the percentage increase between—

- (a) the CPI published for the quarter ending immediately before the start of the financial year; and
- (b) the CPI published for the quarter ending immediately before the end of the financial year.

***prescribed taxi service area*** means a taxi service area prescribed by regulation for this section.

## **91ZX Taxi Industry Security Fund**

- (1) The Taxi Industry Security Fund (the ***fund***)

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established under previous section 80B is continued in existence.

- (2) The *Financial Accountability Act 2009* applies to the fund.
- (3) Accounts for the fund must be kept as part of the departmental accounts of the department.
- (4) Amounts received for the fund must be deposited in a departmental financial institution account of the department but may be deposited in an account used for depositing other amounts of the department.
- (5) Amounts received for the fund include taxi industry security levies under section 91ZW.
- (6) Amounts may be paid out of the fund for the costs of improving the security of taxi services, including, for example, the costs of engaging rank marshals and security guards at taxi ranks.
- (7) If there is a surplus in the fund at the end of a financial year, the surplus must remain in the fund.
- (8) In this section—

***departmental accounts***, of a department, means the accounts of the department under the *Financial Accountability Act 2009*, section 69.

***departmental financial institution account***, of a department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

***other amounts***, of a department, means amounts received by the department other than amounts received for the fund.

***previous section 80B*** means section 80B as in force before the commencement.

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## **Division 3      Other provisions**

### **91ZY Personalised transport subsidy scheme**

A regulation may provide a scheme under which the State, for public passenger services provided to particular groups using taxis, limousines or booked hire vehicles, pays—

- (a) the whole or a part of fares for the services; or
- (b) another amount for the provision of the services.

### **91ZZ Security cameras**

A regulation may provide for—

- (a) the use of security cameras in vehicles used to provide taxi services or booked hire services; and
- (b) access to, and the disclosure and use of, information (including sound and images) captured by the cameras for purposes related to—
  - (i) the safety and security of the services; and
  - (ii) generally, a police officer performing the officer's duties.

## **19      Amendment of s 100 (Direction to comply with standards)**

Section 100(3)(a), 'or operate'—

*omit.*

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**20 Amendment of s 120 (Entry of place)**

(1) Section 120(d) and (e)—

*renumber* as section 120(e) and (f).

(2) Section 120—

*insert*—

- (d) it is a place of business of a person in the chain of responsibility for a taxi service or booked hire service to whom an audit notice has been given under section 91ZN and the authorised person reasonably believes it is necessary to enter the place to carry out the audit; or

**21 Omission of s 124A (Power to require limousines to be moved)**

Section 124A—

*omit.*

**22 Omission of s 145 (Chief executive may declare particular motor vehicles)**

Section 145—

*omit.*

**22A Amendment of s 148 (Inquiries about person's suitability to hold accreditation or authorisation)**

(1) Section 148(1)(a), 'or driver authorisation'—

*omit, insert*—

, driver authorisation or booking entity authorisation

(2) Section 148(1)(b) and (c), after 'operator accreditation'—

*insert*—

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or booking entity authorisation

(3) Section 148(1)—

*insert—*

(d) another person is a suitable person to hold, or continue to hold, booking entity authorisation if, under a regulation, the person's criminal history is relevant to the decision.

(4) Section 148(3)(d), from 'or application'—

*omit, insert—*

, booking entity authorisation or application for operator accreditation, driver authorisation or booking entity authorisation.

## **22B Amendment of s 148A (Notice of change in police information about a person)**

Section 148A(1)(a), 'or driver authorisation'—

*omit, insert—*

, driver authorisation or booking entity authorisation

## **23 Insertion of new ss 150B and 150C**

After section 150A—

*insert—*

### **150B Offences to be counted for particular penalty provisions**

(1) This section applies in relation to the following provisions (each a *relevant provision*)—

(a) section 27(1);

(b) section 74(1) and (2);

(c) section 75(2);

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- (d) section 76(1);
  - (e) section 77(1);
  - (f) section 78(1) and (2);
  - (g) a provision of a regulation prescribed by regulation to be a provision to which this section applies.
- (2) For working out whether an offence against a relevant provision is a first, second, third or later offence, each offence committed by the person against the provision must be counted.

### **150C When a person has committed an offence**

- (1) This section applies for working out, for the following provisions, whether a person has committed an offence against a provision of an Act—
- (a) section 91ZHA;
  - (b) section 150B;
  - (c) a provision of a regulation prescribed by regulation to be a provision to which this section applies.
- (2) A person has committed an offence if the person—
- (a) has been convicted of the offence; or
  - (b) has been served with an infringement notice for the offence and the infringement notice has been dealt with under the *State Penalties Enforcement Act 1999*.
- (3) For subsection (2)(b), an infringement notice for an offence served on a person has been dealt with under the *State Penalties Enforcement Act 1999* if 1 of the following has happened under that Act—



- (a) the fine for the infringement notice has been paid in full;
- (b) the person has applied for approval to pay the fine for the infringement notice by instalments;
- (c) an enforcement order has been made against the person for the offence under section 38 of that Act.

**24 Amendment of s 153B (Facilitation of proof—general)**

Section 153B(1)(b), from ‘that’—

*omit, insert—*

any of the following matters is evidence of the matter—

- (i) at a particular time, a stated motor vehicle was or was not a taxi, limousine or booked hire vehicle;
- (ii) at a particular time, a gazette notice under this Act was in force and had not been amended or repealed by another gazette notice;
- (iii) at a particular time, a stated place was or was not a cross-border taxi rank; and

**25 Amendment of s 154H (References to public passenger services in pt 2)**

Section 154H(1), ‘limousine’—

*omit, insert—*

booked hire

**26 Amendment of s 155 (Regulation-making power)**

(1) Section 155(3)(b), after ‘the services’—

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*insert—*

, including, for example, the use of security cameras and other security devices in vehicles used to provide the services

(2) Section 155(3)(c), after ‘services’—

*insert—*

or payment surcharges for fares

(3) Section 155(3)(e), ‘or driver’—

*omit, insert—*

, driver authorisation or booking entity

## **27 Amendment of s 155A (Taxi and limousine industry assistance regulation)**

Section 155A—

*insert—*

(4) In this section, the following terms have the meaning they had when this section commenced—

- accredited operator
- administration of taxi services
- limousine service
- limousine service licence
- special purpose limousine service licence
- taxi service
- taxi service licence.

## **28 Insertion of new ch 13, pt 18**

After section 207—

*insert—*

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## **Part 18**

# **Transitional provisions for Transport and Other Legislation (Personalised Transport Reform) Amendment Act 2017**

### **208 Definitions for part**

In this part—

*amending Act* means the *Transport and Other Legislation (Personalised Transport Reform) Amendment Act 2017*.

*previous*, in relation to a provision of this Act, means the provision as in force before the commencement.

### **209 Existing taxi service bailment agreements**

- (1) A taxi service bailment agreement in force immediately before the commencement continues in force despite the repeal of chapter 4A of the Act by the amending Act.
- (2) However, previous chapter 4A does not continue to apply to the taxi service bailment agreement.

### **210 Existing taxi administration service contracts**

- (1) This section applies to a service contract for the administration of taxi services that is in force immediately before the commencement.
- (2) The service contract ends on the commencement.
- (3) However, a provision of the service contract about the taxi subsidy scheme continues in force to the extent the provision applies to a taxi service

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provided to a person before the commencement.

- (4) If a review of the holder's performance under the service contract had started but not ended under section 46 before the commencement, the review ends on the commencement.
- (5) In this section—

*taxi subsidy scheme* means the scheme provided for by a regulation under previous section 80 under which the State pays the whole or part of taxi fares for particular groups.

### **211 Existing taxi service areas**

- (1) This section applies to a taxi service area declared by the chief executive under previous section 71 if the declaration was in force immediately before the commencement.
- (2) The taxi service area is taken to be a taxi service area declared under section 91ZT.

### **212 Record of booking for a limousine service**

- (1) This section applies to a record made before the commencement required to be kept under previous section 87C if it has been less than 2 years since the record was made.
- (2) Previous section 87C continues to apply in relation to the record—
  - (a) as if the reference in the section to 5 years were a reference to 2 years; and
  - (b) as if this Act had not been amended by the amending Act.

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### **213 Suspension of taxi service licence or limousine service licence**

- (1) This section applies if—
  - (a) a taxi service licence continued in force under section 91E(1) was, immediately before the commencement, suspended under a regulation under previous section 79(1); or
  - (b) a limousine service licence continued in force as a limousine licence under section 91H(2) was, immediately before the commencement, suspended under a regulation under previous section 91(1).
- (2) The licence continues to be suspended under this Act until the suspension period ends.

### **214 Reviews of decisions related to taxi service administration contracts**

- (1) This section applies to a decision under section 46(8) or (9), 47(1) or (3) or 47A(3) in relation to a service contract for the administration of taxi services made before the commencement.
- (2) Chapter 10 does not apply to the decision.
- (3) An application for a review of the decision made under section 102 that, on the commencement, has not been decided or withdrawn is taken to have been withdrawn.
- (4) An application to QCAT for a review of an internal review decision for a decision mentioned in subsection (1) made under section 103 that, on the commencement, has not been decided or withdrawn is taken to have been withdrawn.
- (5) In this section—  
*internal review decision*, for a decision, means the chief executive's decision on a review of the decision under section 102.

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## **215 Reviews of decision relating to taxi service licences and limousine service licences**

- (1) This section applies to the following decisions made before the commencement—
  - (a) a decision relating to a taxi service licence under—
    - (i) a regulation under previous section 75(1) or 79; or
    - (ii) previous section 77(2);
  - (b) a decision relating to a limousine service licence under a regulation under previous section 88(1) or 91.
- (2) Chapter 10 applies to the decision, and to an application to the chief executive or QCAT for a review relating to the decision, as if the decision was made under the following provision of chapter 7 as in force after the commencement—
  - (a) for a decision made under previous section 75(1) or 88(1)—section 91P(1);
  - (b) for a decision made under previous section 77(2)—section 91G(3);
  - (c) for a decision made under previous section 79 or 91—section 91T.

## **216 No compensation**

Compensation is not payable by the State because of the amendment of this Act by the amending Act.

## **29 Amendment of sch 1A (Driver disqualification offences)**

Schedule 1A, heading, ‘disqualification’—

*omit, insert—*

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**disqualifying**

**30 Amendment of sch 2 (Reviewable decisions)**

- (1) Schedule 2, entries for sections 75(1), 77(2), 79, 80J(1), 80L, 88(1) and 91—

*omit.*

- (2) Schedule 2—

*insert—*

- 91G(3) requirement to pay amount as condition of transfer of taxi service licence between areas
- 91K refusal to issue booked hire service licence
- 91O(1) imposing a condition on a taxi service licence or booked hire service licence
- 91P amendment of a taxi service licence, limousine licence or booked hire service licence
- 91T suspension or cancellation of a taxi service licence, limousine licence or booked hire service licence, other than immediate suspension of the licence
- 91W refusal to grant booking entity authorisation
- 91Y(1) imposing a condition on a booking entity authorisation
- 91Z amendment of a booking entity authorisation
- 91ZA suspension or cancellation of a booking entity authorisation, other than immediate suspension of the authorisation
- 91ZQ(2)(b) giving a direction to comply with a provision of relevant transport legislation within a stated period

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### 31 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *accredited operator*, *authorised driver*, *authorising document*, *charter bus service*, *copy*, *cross-border taxi service*, *demand responsive service*, *electronic booking system*, *electronic communication*, *excluded public passenger service*, *forward-control passenger vehicle*, *individual fares*, *lease*, *licensed taxi*, *limousine*, *limousine service*, *limousine service licence*, *luxury motor vehicle*, *off-road passenger vehicle*, *passenger car*, *passenger vehicle*, *peak demand management plan*, *peak demand taxi*, *peak demand taxi permit*, *peak patronage period*, *prescribed details*, *relevant area*, *relevant transport legislation*, *special purpose limousine*, *special purpose limousine service licence*, *stretched*, *stretched passenger car*, *student event*, *substitute taxi*, *taximeter*, *taxi*, *taxi industry security levy*, *taxi service*, *taxi service area*, *tourist service*, *unscheduled long distance passenger service* and *wedding event*—

*omit.*

- (2) Schedule 3—

*insert*—

***accredited operator*** means a person who holds an operator accreditation, including operator accreditation granted on a provisional basis under section 18.

***authorised booking entity*** see section 91V(2).

***authorised driver*** means a person who holds a driver authorisation, including driver authorisation granted on a provisional basis under section 30.

***authorising document*** means—

- (a) for booking entity authorisation—a document evidencing the booking entity authorisation; or
- (b) for driver authorisation—a document evidencing the driver authorisation.



***booked hire service*** see section 71.

***booked hire service licence*** see section 91J.

***booked hire vehicle*** means—

(a) a motor vehicle stated in a booked hire service licence; or

(b) a substitute vehicle for the licence.

***booking entity authorisation*** see section 91V(1).

***booking record***, for a booked hire service, see section 80.

***booking service***, for a booked hire service, see section 72.

***business practices***, for chapter 7, part 3, see section 83.

***drive***, a vehicle, includes operate or otherwise be in charge of the vehicle.

***driver licence*** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

***fatigue***, for chapter 7, part 3, see section 83.

***foreign person*** means—

(a) an individual who usually lives in a foreign country; or

(b) a corporation incorporated in a foreign country.

***hire on-the-spot***, for chapter 7, see section 69.

***limousine*** means—

(a) a motor vehicle stated in a limousine licence; or

(b) a substitute vehicle for the licence.

***limousine licence*** see section 91H(1).

***local nominee***, of an authorised booking entity, see section 91ZD(1).

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***original taxi service licence*** see section 91E(1).

***payment surcharge*** see section 91ZS(1).

***person in the chain of responsibility***, for a taxi service or booked hire service, see section 84.

***provides***, for a taxi service or booked hire service, for chapter 7, see section 73.

***Queensland driver licence*** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

***reasonably practicable***, in relation to a duty to ensure safety, for chapter 7, part 3, see section 83.

***relevant driver offence*** see section 91ZI.

***relevant transport legislation***—

(a) for chapter 7—see section 69; or

(b) for chapter 11—see section 110.

***safety law***, for chapter 7, part 3, see section 83.

***safety risk***, for chapter 7, part 3, see section 83.

***substitute vehicle*** means a motor vehicle allowed to be used under a taxi service licence, a limousine licence or a booked hire service licence under a regulation under section 91R(3)(b).

***taxi*** means—

(a) a motor vehicle stated in a taxi service licence; or

(b) a substitute vehicle for the licence.

***taxi service*** see section 70.

***taxi service area*** means an area declared under section 91ZT.

(3) Schedule 3, definitions *community transport service* and *courtesy transport service*, ‘public passenger service’—

*omit, insert*—

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service for the carriage of passengers

- (4) Schedule 3, definition *disqualifying offence*, from ‘accreditation,’ to ‘limousine service licence,’—

*omit, insert—*

accreditation or booking entity authorisation,

- (5) Schedule 3, definition *operator*, from ‘, and includes’ to ‘taxi service licence’—

*omit.*

- (6) Schedule 3, definition *public passenger service*, paragraph (c), after ‘courtesy’—

*insert—*

transport service

- (7) Schedule 3, definition *public passenger service*, ‘and a service for the administration of taxi services’—

*omit.*

- (8) Schedule 3, definition *public passenger vehicle*, paragraph (g)—

*renumber* as paragraph (i).

- (9) Schedule 3, definition *public passenger vehicle*—

*insert—*

(g) a booked hire vehicle;

(h) another vehicle used to provide a public passenger service;

- (10) Schedule 3, definition *public transport infrastructure*, paragraph (b), after ‘other’—

*insert—*

public

- (11) Schedule 3, definition *service contract area or route*, ‘or 66’—

*omit.*

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- (12) Schedule 3, definition *taxi service licence*, ‘section 69’—  
*omit, insert—*  
section 91D

## **Part 3**

# **Amendment of Transport Operations (Road Use Management) Act 1995**

### **32 Act amended**

This part amends the *Transport Operations (Road Use Management) Act 1995*.

### **33 Amendment of s 78 (Driving of motor vehicle without a driver licence prohibited)**

- (1) Section 78(3)(f) and (g), after ‘1999’—

*insert—*

or *Transport Operations (Passenger Transport) Act 1994*

- (2) Section 78(6), definition *disqualified driver*, paragraphs (b)(iii) and (c)(iii), after ‘1999’—

*insert—*

or *Transport Operations (Passenger Transport) Act 1994*

### **34 Amendment of s 79 (Vehicle offences involving liquor or other drugs)**

Section 79(2C)(e)—

*omit, insert—*

- (e) a taxi or limousine under the *Transport Operations (Passenger Transport) Act 1994*;

(ea) a vehicle that is not a taxi or limousine under the *Transport Operations (Passenger Transport) Act 1994* that is available to be used, about to be used or being used to provide a public passenger service under the *Transport Operations (Passenger Transport) Act 1994*;

*Example of a vehicle available to be used to provide a public passenger service—*

a driver of the vehicle is on duty to accept bookings for a booked hire service, including, for example, by being connected to a booking service or app to accept bookings

**35 Amendment of s 87 (Issue of restricted licence to disqualified person)**

Section 87(5B)(c), after ‘1999’—

*insert—*

or *Transport Operations (Passenger Transport) Act 1994*

**36 Amendment of s 129A (Effect of suspension of licence under State Penalties Enforcement Act 1999)**

(1) Section 129A, heading, ‘State Penalties Enforcement Act 1999’—

*omit, insert—*

**other Acts**

(2) Section 129A(1)—

*omit, insert—*

(1) This section applies if a person’s driver licence is suspended under—

(a) the *State Penalties Enforcement Act 1999*, section 105; or

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(b) the *Transport Operations (Passenger Transport) Act 1994*, section 91ZJ.

(3) Section 129A(2), from ‘Suspension’ to ‘1999—’—  
*omit, insert—*

The suspension of the driver licence—

(4) Section 129A(3)(a), ‘the *State Penalties Enforcement Act 1999*’—  
*omit, insert—*

a provision mentioned in subsection (1)

(5) Section 129A(4), from ‘until’ to ‘that Act’—  
*omit, insert—*

until the period of the suspension ends

(6) Section 129A(5), from ‘A’ to ‘1999’—  
*omit, insert—*

The suspension of the driver licence

(7) Section 129A(6), ‘the *State Penalties Enforcement Act 1999*’—  
*omit, insert—*

a provision mentioned in subsection (1)

(8) Section 129A(6), penalty, ‘for subsection (6)’—  
*omit.*

(9) Section 129A(7)—  
*omit, insert—*

(7) A person who is disqualified from applying for or obtaining a driver licence under either of the following provisions must not apply for or obtain a driver licence while the person is disqualified under that provision—

(a) the *State Penalties Enforcement Act 1999*, section 106(4);

(b) the *Transport Operations (Passenger Transport) Act 1994*, section 91ZJ.

Maximum penalty—20 penalty units or 18 months imprisonment.

## **Part 4                      Other amendments**

### **37      Acts amended**

Schedule 1 amends the Acts it mentions.

## Schedule 1      Acts amended

section 37

### Liquor Act 1992

- 1      **Section 14B(2), definition *limousine licensee*, ‘service’—**  
*omit.*

### State Penalties Enforcement Amendment Act 2017

- 1      **Schedule 1, entry for *Transport Operations (Passenger Transport) Act 1994*, amendment 1, inserted paragraph (c)—**  
*omit, insert—*
- (c) the respondent has applied, under section 23 of that Act, for the fine to be registered with SPER for the purpose of paying the fine under a payment plan;

*Editor’s note—*

Legislation ultimately amended—

- *Transport Operations (Passenger Transport) Act 1994*



## **Tobacco and Other Smoking Products Act 1998**

- 1 Section 26ZKB(7), definition *public passenger vehicle*—**  
*insert—*
- (f) a booked hire vehicle.

## **Transport Infrastructure Act 1994**

- 1 Section 335A, definition *busway service provider*, paragraph (a)(i), ‘limousine’—**  
*omit, insert—*
- booked hire

## **Transport Operations (Passenger Transport) Act 1994**

- 1 Section 150C(3)(b)—**  
*omit, insert—*
- (b) the person has applied, under section 23 of that Act, for the fine to be registered with SPER for the purpose of paying the fine under a payment plan;

## **Transport Planning and Coordination Act 1994**

- 1**      **Schedule 1, definition *public passenger transport infrastructure*, paragraph (f), ‘, limousine rank or limousine standing area’—**

*omit.*

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