



Department of
Transport

Transport (Road Passenger Services) Act 2018: Summary



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Part 1 – Preliminary

Part 1 contains the short title, commencement provisions, terms used and key definitions applicable to the Bill's scope and interpretation.

The Act will regulate the following key road passenger transport services:

On-demand passenger transport & booking services

- These are services for the transport of passengers for hire or reward, in which the passenger substantially determines the time and locations for the start and finish of the journey.
- Providers of booking services in respect of on-demand passenger services, vehicles used in the provision of on-demand passenger transport services, and the drivers of those vehicles need to be authorised for those purposes.
- A person who carries on the business of providing an on-demand passenger transport service will be subject to the safety duties in Part 2 of this Act, as will an on-demand booking service provider, and the provider and the driver of a vehicle used in the provision of on-demand passenger transport services.

Regular passenger transport services

- These are services for the transport of passengers for hire or reward, that are conducted according to regular routes and timetables, or according to regular routes and at regular intervals – they are generally available on a non-exclusive basis to members of the public and include public bus services such as those provided by the Passenger Transport Authority.
- Providers of regular passenger transport services, vehicles used in the provision of regular passenger transport services, and the drivers of those vehicles need to be authorised for those purposes.
- A person who carries on the business of providing a regular passenger transport service will be subject to the safety duties in Part 2 of this Act, as will the provider and the driver of a vehicle used in the provision of regular passenger transport services.

Tourism passenger transport services

- These are services for the transport of passengers for hire or reward, for the purposes of tourism, and that are designed for the carriage of tourists to destinations listed on a publicly available tour itinerary.
- Vehicles used in the provision of regular passenger transport services, and the drivers of those vehicles need to be authorised for those purposes.
- The provider of the service will not need a separate authorisation, however they will be subject to the safety duties in Part 2 of this Act, as will the provider and the driver of a vehicle used in the provision of tourism passenger transport services.

Community and Courtesy passenger transport services

- These are services that are not established with a view to profit or commercial gain, and that are:
 - designed to benefit individuals or groups within a local community who are in need of some form of assistance or to achieve some form of community, charitable, educational, benevolent, religious, recreational, sporting or philanthropic purpose at the local level; or

- provided in connection with a service that is not the provision of passenger transport by vehicle, and is provided as a courtesy to the customers or patrons of that service.
- Providers of community and courtesy transport services and the vehicles used in the provision of those services will not need to be authorised to provide the service. The drivers of vehicles used in the provision of community transport services may need to be authorised if they are considered to be driving to transport passengers for hire or reward.

Drivers of vehicles transporting passengers for hire or reward

- The Act will require all persons who are considered to be driving vehicles to transport passengers for hire or reward to be authorised for that purpose. This may include the transport of passengers in circumstances beyond the three key types of passenger transport service regulated under this Act. For example, where a person is employed by a community organisation specifically to transport members or patrons of that organisation.
- Passenger transport drivers will be subject to safety duties pursuant to Part 2 of the Act.

Part 2 – Safety of services

Part 2 establishes the framework and safety duties for persons involved in providing passenger transport services, including the principles, duties and offences for breaching safety duties.

Safety framework principles

- The Act provides a ‘chain of accountability’ framework, which is based on the concept of duty of care.
- All persons with a key role in the provision of road passenger transport services are subject to safety duties, and can be held accountable for their acts and omissions in relation to safety.
- Passenger transport services can involve some risk to the providers, users of the services and the general public – for example, in connection with the use of motor vehicles on roads, vehicle safety and driver safety and anonymity between parties involved.
- Community expectation is that persons involved in the provision of passenger transport services play a pro-active role in managing and minimising those risks to the extent possible.
- Duties assigned to one person cannot be transferred to another person (cl 15(1)).
- A person can be subject to more than one safety duty at a time if they have more than one role in relation to the provision of a passenger transport service (cl 15(2)).
- More than one person can also be subject to the same safety duty at the same time, in which case each person retains responsibility for their duty and must discharge it to the extent to which they have the capacity to influence and control a matter (cl 15(3) & (4)).

Key persons

- The safety chain of accountability will apply to:
 - a) providers of on-demand booking services;
 - b) providers of passenger transport services;
 - c) providers of passenger transport vehicles;
 - d) drivers of vehicles used to transport passengers for hire or reward (cl 14).
- A primary duty of care will also apply to officers of providers of on-demand booking services, officers of providers of passenger transport services and officers of providers of passenger transport vehicles.

Primary duties of care

- On-demand passenger booking service providers must ensure:
 - a) the health and safety of on-demand drivers and other persons while they are engaged in providing the on-demand passenger transport service; and
 - b) the health and safety of passengers and other persons in connection with the on-demand passenger transport service (cl 16).
- Passenger transport service providers must ensure:
 - a) the health and safety of passenger transport drivers and other persons while they are engaged in providing the passenger transport service; and
 - b) the health and safety of passengers and other persons in connection with the passenger transport service (cl 17).
- Providers of passenger transport vehicles used or to be used in providing a passenger transport service must ensure the vehicles are safe and will not cause harm or injury to any person (cl 18).
- The driver of a vehicle, whilst the vehicle is being used for the purpose of transporting passengers for hire or reward, must:
 - a) ensure their own health and safety;

- b) ensure that their acts or omissions do not or may not adversely affect the health and safety of others;
 - c) if the vehicle is being used to provide an on-demand passenger transport service, comply with any reasonable instruction given by the person providing the on-demand booking service to enable that person to comply with this Act; and
 - d) if the vehicle is being used to provide a passenger transport service, comply with any reasonable instruction given by the person providing the passenger transport service or passenger transport vehicle, to enable that person to comply with this Act (cl 19).
- An officer of the provider of an on-demand booking service, passenger transport service, or a passenger transport vehicle (defined in cl 4 as an individual who has the capacity to make decisions) must ensure that the duty holder to whom they have a duty, complies with the relevant safety duty (cl 20).

Categories of offences

- The offences and penalties applicable to breaches of safety duties are similar to those contained in the *Occupational Safety and Health Act 1984* for the breach of a workplace duty by an employer, and the penalties are same as those contained in the NSW on-demand transport legislation, the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*.
- A duty holder charged with a safety duty offence under this Division may be convicted of a lesser safety duty offence (cl 25) if the evidence in a case is sufficient for that conviction.

Category 1 Offence (cl 21)

- The most serious offence is a crime and occurs if the person with a safety duty knowingly engages in conduct that breaches that duty and:
 - a) exposes an individual to whom the duty is owed to a risk of death, serious injury or illness; or
 - b) in the case of a breach of an officer's duty pursuant to clause 20, the breach exposes an individual to whom the duty holder of the officer owes a duty, to a risk of death, serious injury or illness.
- Maximum Penalty: individual - \$300,000 and 2 years imprisonment; body corporate - \$3 million.

Category 2 Offence (cl 22)

- Also a crime, a Category 2 safety duty offence occurs when the person with a safety duty fails to comply with that duty and:
 - a) exposes an individual to whom the duty is owed to a risk of death, serious injury or illness; or
 - b) in the case of a breach of an officer's duty pursuant to clause 20, the breach exposes an individual to whom the duty holder of the officer owes a duty, to a risk of death, serious injury or illness.
- Maximum Penalty: individual - \$150 000; body corporate - \$1.5 million.

Category 3 Offence (cl 23)

- The lesser of the offences, a Category 3 safety duty offence occurs when the person with a safety duty fails to comply with that duty.
- Penalties: individual - \$50 000; body corporate - \$500 000.

Reasonable steps defence

- A duty holder charged with an offence under this Division will have a defence if they can prove that:
 - a) they did not know and could not reasonably be expected to have known that an offence was committed; and
 - b) they had taken all reasonable steps to prevent a breach; or
 - c) there were no reasonable steps they could have been expected to have taken to prevent the breach (cl 24).

Part 3 – On-demand booking services

Part 3 addresses the authorisation of on-demand booking service providers, including offences, and the suspension, cancellation and disqualification of booking service providers.

On-demand booking service must be authorised

- An on-demand booking service is a service that involves taking bookings for, or facilitating the provision of, on demand passenger transport services.
- The meaning of ‘taking a booking’ (cl 4(1)), includes the hiring of a vehicle as a result of a rank or hail service, meaning that a person who takes what can be characterised as ‘on the spot’ bookings for on demand passenger transport services in a rank or hail context may be an on-demand booking service provider.
- All on-demand booking services operating in the State will be subject to the safety duties in Part 2 of the Act and must be authorised. It will be an offence to operate without an authorisation (cl 27).
Penalties: individual - \$40 000; body corporate - \$200 000.
- A provider of an on demand booking service (associated booking service) does not need to be authorised to provide the service if they have an ‘association arrangement’ with the provider of another authorised on-demand booking service in relation to that service (the principal booking service). Example: driver who takes a booking as a result of a rank or hail service will not need to be authorised as a provider of an on-demand booking service if they have an association arrangement with an authorised on-demand booking service.
- An association arrangement will need to be in writing and specify what times and in what circumstances an authorised on-demand booking service is the principal booking service in respect of an associated booking service provider, so it is clear which services the principal booking service is responsible for at any given time.
- An on-demand booking service authorisation is granted subject to conditions imposed under the Act (cl 33). A penalty will apply if they are not complied with (cl 28).
Penalties: individual - \$40 000; body corporate - \$200 000.

Applications

- An individual, partnership, body corporate, or other prescribed entity may apply to be authorised (cl 29). The application must be accompanied by the prescribed fee and nominate at least one person to represent the applicant in providing the booking service – the “responsible officer”.
- The responsible officer must be a fit and proper person and must be a person with the capacity to influence the safety practices of the service (cl 30). The officer will be a “point of contact” for the on-demand booking service and at least one responsible officer must be a resident of the State (cl 29(5)).

- The CEO may refuse an application on specified grounds (such as not being satisfied that the applicant is a fit and proper person) or if the applicant, responsible officer or a close associate of the applicant has been convicted of a disqualification offence (cl 32).
- The disqualification regime for bookings services is similar to the model recently adopted in NSW – more serious offences will be prescribed, and the CEO will be able to take into account offences by an applicant as well as by persons who may have a significant influence on the operations of the booking service – for example as a result of financial arrangements.

Authorisation document

- If an authorisation is granted to an on-demand booking service provider, they will be issued with an authorisation document which will include a unique authorisation number (cl 37).
- The authorisation document will authorise the provision of the on-demand booking service anywhere in the state (cl 38) and will not be transferable (cl 40).
- The duration of the authorisation will be prescribed (cl 39) and is expected to be one year.
- A list of authorised on-demand booking service providers will be published on the DoT website (cl 41).

Suspension, cancellation and disqualification

- The CEO may suspend or cancel an authorisation in certain circumstances (cl 42, 43), including where a provider is charged with a disqualification offence, as defined in clause 26.
- More serious offences will be prescribed, and the CEO will be able to take into account offences by an applicant as well as by the responsible officer of a provider, and persons who may have a significant influence on the operations of the booking service – for example as a result of financial arrangements.
- Different periods of disqualification may be prescribed for different offences (cl 46) and the provider will have 30 days to show cause why the service should not be suspended (cl 48).
- Immediate suspension or cancellation (i.e. no opportunity to show cause) will be possible if the service has been or is being conducted in a manner that causes a danger to the public (cl 49).

Part 4 – Regular passenger transport services

Part 4 of the Act makes provision for the authorisation of regular passenger transport service providers and will ensure that the services and the routes and areas in which they operate, will be assessed.

Regular passenger transport service must be authorised

- Regular passenger transport services are services for the transport of passengers by vehicle for hire or reward and are conducted according to regular routes and timetables or according to regular routes and at regular intervals (cl 6). These services have predefined stopping places for the picking up and setting down of passengers and so are generally available on a non-exclusive basis to members of the public and include public bus services.
- Providers of regular passenger transport services must be authorised under the legislation as they will be subject to the safety duties in Part 2. It will be an offence if found to be operating a service without an authorisation.
Penalties: Individual - \$40,000; Body corporate- \$200,000 (cl 56).
- An authorisation may be granted subject to any conditions imposed under the Act (cl 66). It will be an offence for a provider to not comply with any conditions imposed on the authorisation.
Penalties: Individual - \$40,000; Body corporate- \$200,000 (cl 57).

Applications

- Applications for authorisation may be made by an individual, 2 or more persons, a body corporate or a prescribed entity (cl 59). The application must be accompanied by a prescribed fee and contain certain information, including the route or routes on which, or the area or areas in which, it is intended that the service is to operate.
- The Minister is empowered to make the decision under this Part to grant (cl 63) or refuse (cl 65) an application (cl 60) and in doing so, may have regard to a number of factors, including the necessity of the service to be provided and the existence of any other similar service and the interests of the community generally (cl 62). This preserves the existing arrangements for regular passenger transport licensing currently in the *Transport Co-ordination Act 1966*.
- The holder of an authorisation may apply for a variation, temporary or otherwise, of approved routes and areas (cls 69 and 70).
- The Minister is also able to grant an immediate, temporary authorisation for services that will be for a particular purpose of limited duration (cl 64), in order to ensure reliable regular passenger transport services in times of un-anticipated need.

Authorisation document

- An authorisation document will be issued to the provider of regular passenger transport service that has been authorised under the Act, which will identify the holder of the authorisation and specify a unique authorisation number (cl 72).
- The authorisation will permit the holder to provide a regular passenger transport service on the routes or areas approved by the Minister, as specified in the authorisation document (cl 73) and is granted for the period prescribed in the regulations, expected to be up to 5 years.

Suspension and cancellation

- An authorisation may be suspended or cancelled by the Minister for a number of reasons, including if the holder has failed to comply with any requirements under the Act or if the Minister is no longer satisfied that they are a fit and proper person (cl 79).
- The provider will have 30 days to show cause why the service should not be suspended (cl 81).
- Immediate suspension or cancellation (i.e. no opportunity to show cause) may occur if there is a risk to public safety as a result of the way the service is being conducted (cl 82).

Part 5 – passenger transport drivers

Part 5 addresses the authorisation of drivers of vehicles that are transporting passengers for hire or reward, including offences, and the suspension, cancellation and disqualification of passenger transport driver authorisations.

Passenger transport drivers must be authorised

- Passenger Transport Driver means a person who drives a vehicle for the purpose of transporting passengers for hire or reward (cl 4).
- Driving a vehicle to transport passengers for hire or reward generally captures the following circumstances:
 - a) where the passengers have paid some form of consideration for the service, such as where a passenger pays for a taxi or charter service; and
 - b) where the person driving the vehicle is doing so for reward, regardless of whether or not the passengers being transported have paid for the service, such as a paid driver of a free public transport shuttle-bus, or a person employed by a business as a professional driver, to drive customers or staff to required locations (cl 11).
- A person will not be considered to be driving a vehicle for the purpose of transporting passengers for hire or reward:
 - a) if the person is driving the vehicle in the course of the person's general employment, and carrying passengers in that vehicle is an incidental part of the person's other employment duties;
 - b) if the passengers are transported under a vehicle pooling arrangement; and
 - c) in any circumstances that may be provided by regulations (cl 11).
- Any person driving a vehicle for the purpose of transporting passengers for hire or reward must be authorised under the legislation, and they will be subject to the safety duties in Part 2. It will be an offence to be driving a vehicle for that purpose without an authorisation. Penalty:
Maximum - \$12 000
- A minimum penalty of \$2,000 will apply if the offence for driving unauthorised occurs in aggravated circumstances – for example, where the person's authorisation was subject to a suspension, they were disqualified, or their driver's licence was not in force.
- It will also be an offence if a person causes or permits another person to drive a vehicle for the purpose of transporting passengers for hire or reward, or provides an on-demand booking service to a person in order for them to drive a vehicle to provide an on-demand passenger transport service, and the driver does not hold a passenger transport driver authorisation that is in force (cl 91).

Penalties: Individual - \$12,000 maximum (subsequent offence - \$2 000 minimum)
Body corporate - \$60,000 (subsequent offence - \$10,000 minimum)

Application

- A passenger transport driver authorisation application will need to be accompanied by the prescribed fee (cl 95), and evidence relevant to whether the driver is fit and proper – for example an approved medical report and a criminal records check and a traffic record check.
- It is intended that the application will be a simple process and if the CEO requires more information, this can be requested in writing.
- The CEO has the discretion to grant (cl 96) or refuse (cl 97) an application for authorisation in certain circumstances, for example on consideration of whether or not the person is a fit and proper person. However, the CEO will be compelled to refuse an application if the applicant has been convicted of a prescribed disqualification offence (as defined in cl 89).
- Serious offences will be prescribed as disqualification offences. The disqualification regime in this Part aligns with that included in the *Taxi Drivers Licensing Act 2014*.
- An authorisation will be granted subject to any conditions imposed under the Act (cl 98).

Authorisation document

- A driver authorisation document will be provided to the holder, which will include a unique number (cl 102).
- It will authorise the holder to drive the vehicle anywhere in the State for the purposes of transporting passengers for hire or reward (cl 103) and will be granted for a period prescribed in the Regulations (cl 104). This is expected to be a period of 1 year.
- It is an offence for a person to do any of the following: forge or fraudulently alter a passenger transport driver authorisation, or to use such an authorisation; to use an expired or out of date authorisation document; to allow another person to use, or to use, a driver's identifying details for the purpose of impersonating the driver or holding out that the person is authorised to drive a vehicle for the purpose of transporting passengers for hire or reward (cl 94). Maximum penalty: \$5,000.

Suspension, cancellation and disqualification

- A transport driver authorisation may be suspended or cancelled in certain circumstances (cl 106) and may require remedial action to be undertaken. For example, if the CEO is no longer satisfied that the driver meets the requirements for the grant of the authorisation (cl 96), or if the holder is charged with a disqualification offence in cl 89 (cl 107).
- Disqualification offences and periods in respect of those offences will be prescribed by regulations (118). Serious offences will be prescribed as disqualification offences. The disqualification regime in this Part aligns with that included in the *Taxi Drivers Licensing Act 2014*.
- The holder will have 30 days to show cause why the authorisation should not be suspended or cancelled (cl 109).
- However, immediate suspension or cancellation will be possible if the CEO believes that there is a danger to the public (cl 110).
- If a person's driver's licence is cancelled, their passenger transport driver authorisation will also be cancelled (cl 119).

Part 6 – passenger transport vehicles

Part 6 addresses the authorisation of vehicles used in the provision of passenger transport services, including offences, and the suspension and cancellation passenger transport vehicle authorisations. The primary focus of this Part is to ensure the safety of all vehicles that are to be used in the provision of a passenger transport service.

Passenger transport vehicles must be authorised

- Passenger Transport Vehicle means a vehicle used or intended to be used in providing a passenger transport service (cl 4). This definition includes all vehicles currently within the meaning of taxi, country taxi-car and omnibus. The categories of passenger transport service are:
 - a) On-demand rank or hail;
 - b) On-demand charter;
 - c) Regular;
 - d) Tourism; and
 - e) A service prescribed as a passenger transport service (cl 125).
- A vehicle can be authorised for more than one category (cl 124) and these categories can be varied on application by the holder of the authorisation (cl 132-133).
- If a vehicle is driven for the use of providing a passenger transport service, it must be authorised for that particular category of service under the new legislation. If not, the driver commits an offence. Penalty: \$12,000 (cl 121),
- Similarly, it will be an offence to 'operate' a vehicle for use in providing a passenger transport service if that vehicle is not authorised for that particular category (cl 122). The term operate includes to make available for use in transporting passengers for hire or reward (cl 120). This is intended to ensure that a person who makes a vehicle available for use in the provision of passenger transport services, which would include any time the vehicle is provided to another person for that purpose, is still subject to the Part, and the requirement for the vehicle to be authorised applies. Penalties: Individual - \$12,000; Body corporate - \$60,000.
- It will also be an offence if a person causes or permits another person to operate the vehicle or is the provider on an on-demand booking service in relation to the operation of the vehicle and that vehicle is not authorised to be operated for use in providing that category of passenger service (cl 122) Penalties: Individual - \$12 000: Body corporate - \$60 000.
- A vehicle that has an interstate authorisation or that is being driven in place of an authorised vehicle that is being repaired will be able to operate without an authorisation for a limited time, provided the prescribed requirements are met.
- A person must not operate or allow to be operated, a vehicle in contravention of any conditions of the vehicle authorisation (cl 123).

Application

- The owner of the vehicle, or a person authorised by the owner, may apply for the authorisation of the vehicle (cl 124). If a person other than the vehicle owner is authorised, the owner of the vehicle retains the ability to withdraw their consent and request that the CEO cancel the authorisation (cl 149).
- The application to authorise a passenger transport vehicle must be made to the CEO, in the approved form, contain the information required by the CEO, state the category or categories of passenger transport service for which the vehicle is to be operated and be accompanied by the prescribed application fee.

- The CEO may grant an authorisation if the applicant has complied with all necessary requirements of the legislation (cl 127), including any requirements that are specified in the regulations. It is intended that such requirements will include those facilitating vehicle and passenger safety, accessibility and vehicle standards (cl 126). It will be granted subject to any conditions imposed under the Act (cl 129).
- The CEO will have discretion to refuse to grant an authorisation if the vehicle does not meet the prescribed criteria, or if satisfied that the applicant is not a fit and proper person to hold the authorisation (cl 128).
- An authorisation document will be issued to the applicant and will identify both the holder of the authorisation and the vehicle itself, specify the category of passenger transport service for which it is authorised to operate and be allocated a unique authorisation number (cl 135).
- The authorisation will permit the vehicle to be operated for use in providing the particular category of passenger transport service anywhere in the State for the prescribed period (cl 136 and 137) and will not be transferrable (cl 138).
- The vehicle authorisation can be suspended or cancelled by the CEO for a number of reasons, including if the holder has failed to comply with any requirements under the Act or if the CEO is no longer satisfied that they are a fit and proper person (cl 139). A suspension order may include the requirement that the holder take action to remedy the situation and will notify that the holder will have 30 days to show cause why the vehicle licence should not be suspended or cancelled (cl 141).
- Immediate suspension or cancellation (i.e. no opportunity to show cause) will be possible if there is an actual or possible risk to public safety as a result of the condition of the vehicle or the way it is being operated (cl 142).
- An authorisation will be cancelled automatically if the vehicle licence is cancelled under the *Road Traffic Vehicles Act 2012* (cl 147) or if the vehicle ownership is transferred to a person other than the holder of the authorisation and that person has not, within the prescribed period, notified the CEO that they have consented to the holder of the authorisation continuing to be the holder (cl 148).

Part 7 – confidentiality and exchange of information

Part 7 deals with confidentiality and exchange of information for the purposes of this Act.

Division 1 – Interpretation - defines the keys terms used in the Part.

Division 2 – Confidentiality and disclosure of information

- Division 2 imposes a duty of confidentiality on any person provided with information pursuant to this Act, who are not permitted to disclose any such information except in the following circumstances:
 - (a) in the performance of a function under this Act;
 - (b) in the performance of a function under the *Transport Co-ordination Act 1966* that relates to passenger transport vehicles; or
 - (c) as authorised under this Act or the *Transport Co-ordination Act 1966* in relation to a function mentioned in paragraph (a) or (b).

Maximum penalty: \$12,000 or 12 months imprisonment (cl 151).

- Division 2 also permits the CEO to disclose:
 - to an authorised on-demand booking service provider or a passenger transport vehicle provider whether an improvement notice under this Act, or a defect notice under the *Road Traffic Vehicles Act 2012*, is in force in relation to an authorised driver or a passenger transport vehicle – this will assist these providers in meeting their safety duties under this Act;
 - the authorisation status of a passenger transport driver to an on-demand booking service or vehicle provider, or on the Department’s website in accordance with regulations – this would include whether or not an authorisation is in force, whether it is subject to conditions and whether it is suspended, cancelled or disqualification. Access to personal information will be restricted. This will assist service providers in meeting their safety duties and empower consumers in making choices about the services they intend to use.
 - the authorisation status of a passenger transport vehicle to a service provider, or on the Department’s website – information to be disclosed will include the authorisation number and number plate of the vehicle, the category of authorisation, whether or not it is in force, and any conditions imposed. Access to personal information will be restricted. This will assist service providers in meeting their safety duties and empower consumers in making choices about the services they intend to use.

Division 3 – Exchange of information

- This Division facilitates exchange of information relevant to the administration of the Act and related laws (such as road laws), between the CEO and other relevant persons including:
 - the Commissioner of Police;
 - the road traffic CEO;
 - the *Transport Co-ordination Act* CEO;
 - law enforcement officials; and
 - interstate passenger transport authorities.
- It sets out the type of information that may be exchanged and the purposes for which it may be used.

Part 8 – enforcement

Part 8 provides powers and evidentiary provisions for the monitoring, investigation and enforcement of the provisions of the Act.

Division 1 – Authorised officers

- Authorised officers will be responsible for the enforcement of the provisions of this Act. Police officers will perform a limited enforcement function, the need for which will most likely arise in the course of a police officer's performance of their frontline policing responsibilities.
- This Division also provides general powers to authorised officers for use in their functions.

Division 2 – Entry warrants

- Provides for warrants to be issued by justices authorising entry to premises for the purposes of monitoring, investigation and enforcement of the provisions of the Act

Division 3 – Obtaining business records

- Provides for the issue of an order by a justice requiring the production of relevant business records held by third parties.

Division 4 – Seizing things and related matters

- Provides powers and duties for authorised officers to seize things relevant to offences against this Act.

Division 5 – Improvement notices

- Empowers authorised officers to issue an improvement notice requiring a contravention of this Bill to be rectified in a specified timeframe.

Division 6 – Controlled operations

- Empowers the CEO to authorize and engage controlled operations officers to conduct controlled operations for the purposes of monitoring compliance and investigating suspected offences. Operations are limited to booking and riding in passenger transport vehicles.

Division 7 - Offences

- Provides for general provisions relating to offences in the Act including corporate liability, and statute of limitations.

Division 8 – Evidentiary provisions

- Provides for evidentiary matters relevant to legal proceedings under the Act.

Division 9 – Infringement notices and the *Criminal Procedure Act 2004*

- Provides the head of power and necessary provisions to enable the issuing of infringement notices for prescribed offences. Applies the infringement provisions in the *Criminal Procedure Act 2004*.

Part 9 – voluntary buyback and adjustment assistance payment schemes and levy

Part 9 provides the legislative framework for implementing the voluntary buyback for Perth owned taxi plates, the on-demand passenger transport levy that will fund the buyback, and adjustment assistance grants for holders of country taxi-car licences for the local government districts of Mandurah and Murray.

Voluntary buyback payment

- As part of the move from taxi plates to annual passenger transport vehicle authorisations under this Act, an industry funded buy-back scheme will be offered in respect of owned taxi plates issued under the *Taxi Act 1994 (WA)* (Taxi Act). As at end June 2018 there were a total of 1925 taxi plates in existence.
- 2 types of payments will be available, depending on whether or not a person owned (or had an interest in the ownership of) taxi plates on 2 November 2017 - the date of the Government's announcement of the proposed buyback scheme for owners of plates. A plate owner who purchased a set of taxi plates after the Minister's announcement of the buyback scheme will not be eligible for a buyback payment.
- If a person did own taxi plates on 2 November 2017, and still owns the plates, that person will be known as an "*eligible owner (buyback)*" and will be entitled to apply for a **Buyback payment** (cl 229).
- Any right of a person to ownership of taxi plates will cease on the grant of the buyback payment in relation to the taxi-plates (cl 230). Regulations will make provision for how the physical sets of taxi plates that were issued to plate holders under the Taxi Act are to be dealt with following the grant of a buyback payment.
- If a person did not own taxi plates on 2 November 2017 but did on or after 1 January 2016, that person will be known as an "*eligible former owner*" and will be entitled to apply for a **net loss payment**. That date follows the former Government's announcement of industry reforms in late December 2015. Net loss payments recognise that some former plate owners, who sold their plate before they were aware of the Government's intended buyback scheme, had invested considerable sums of money in their plate purchase that they may not have been able to recoup.
- The calculation of each type of payment and therefore the final amount received, will depend on when the plate was purchased.
- Where a plate was purchased *before 1 January 2016*, the buy-back scheme will deliver a minimum payment for different plates ("floor payment" cl 226), less any outstanding fees or Hardship Fund payment already paid:
 - i. \$100,000 for each Conventional or Multi-Purpose taxi plate;
 - ii. \$40,000 for each Area Restricted plate; and
 - iii. \$28,000 for each Peak Period plate.
- The amount received may be more than the minimum payment per plate, as the Act makes provision for a calculation of the payments to be based on the greater of the floor payment and the "net loss" (cls 232 and 238). "Net loss" (not to be confused with a 'net loss payment') is the purchase price for the plates minus the estimated revenue generated from the plates over the period of ownership (cl 227).

- Where a plate was purchased *on or after 1 January 2016*, the calculations for payments do not involve a floor payment and do not take into account any net loss associated with the plates (cls 231 and 237), as the plate purchase occurred in the context of Government reforms to the industry, at a time when the plate owner would have been aware of impending changes to the regulation of the industry, as well as the recent decline in values.

Purchased	Eligible Owner (Owned at 2 November 2017 and still own)	Eligible former owner (Not owned at 2 November 2017 but owned at 1 January 2016)
Before 1 January 2016	Buyback Payment = (greater of floor payment and net loss) MINUS hardship fund payments made and any outstanding fees due	Net Loss Payment = (greater of floor payment and net loss) MINUS hardship fund payments made, any outstanding fees due and sale price
On or after 1 January 2016	Buyback Payment = purchase price MINUS hardship fund payments made and any outstanding fees due	Net Loss Payment = purchase price MINUS hardship fund payments made, any outstanding fees due and sale price

- The recipient of a buyback or net loss payment will be entitled to the amount intended by the Bill, notwithstanding any GST implications associated with the payment – if GST is payable by a buyback recipient in respect of the payment, the payment will be increased by an amount equivalent to the relevant GST liability applicable (cl 233 and 239). This amount will be claimed back by DoT from the ATO as an input tax credit making it debt neutral.

On-demand passenger transport levy

- The proposed buy-back scheme is to be funded through a levy on leviable passenger service transactions (cl 245).
- The taking of a booking (made either on the spot or arranged prior) for an on-demand passenger transport service that starts and finishes in the defined 'levy area', is a leviable passenger service transaction (cl 244). The person who took the booking will be liable to pay the levy.
- The levy area is the area centring on metropolitan Perth and the districts of Mandurah and Murray (cl 241). It will not apply elsewhere in the State.
- The levy is limited to on-demand passenger transport services in vehicles that are equipped to seat no more than 12 people (including the driver), and will not apply to regular or tourism passenger transport services that are not on-demand in nature.
- The levy will only become payable, if and when the passenger transport service to which the booking relates is completed (cl 246).
- It is intended that booking services who solely offer certain pre-booked services may apply for exemption from the levy.

- The levy is to be imposed by the *Transport (Road Passenger Services) Amendment Act 2018* (the Levy Amendment Act). Clause 4 of the Levy Amendment Act will, upon commencement, amend clause 245 of Part 9 Division 2 of this Act to impose the levy and provide for the amount of levy payable in respect of each leviable passenger service transaction to be calculated by reference to the fare paid for the on-demand passenger transport service. The levy will be 10% of the fare to a maximum of \$10 per transaction.
- The *Taxation Administration Act 2003* will be amended to prescribe Part 9 Division 2 as a taxing Act for the purposes of that Act. The Department of Transport will administer the levy on a day to day basis pursuant to a delegation from the Commissioner of State Revenue.

Adjustment assistance payments

- Transition assistance grants will be payable to country taxi-car licensees in the Mandurah and Murray local government districts, issued pursuant to the *Transport Co-ordination Act 1966*, to assist these licensees in adjusting to the new operating environment and increased competition in these regions.
- Holders of these licences will be eligible for an adjustment assistance grant in respect of each relevant country taxi-car licence they hold.
- As at end June 2018, there were 36 country taxi-car licenses in existence in respect of the district of Mandurah, and 3 in respect of the district of Murray.
- Under the relevant provisions, a person will be eligible to apply for a grant provided they are currently the licensee, and either:
 - i. obtained the licence before 17 March 2018; or
 - ii. if they became the owner on or after 17 March 2018, provided they had applied under the *Transport (Country Taxi-car) Regulations 1982* to be transferred the licence before that date.
- This date coincides with the Minister for Transport's announcement and advice to the relevant licensees, of the Government's intention to provide assistance to relevant licensees in these regions.
- Successful applicants will receive a grant of \$10,000 per licence.

Part 10 – Review of decisions

Part 10 provides the process by which certain decisions made by the CEO or the Minister for the purposes of the Act, can be reviewed.

Reviewable decisions

The following decisions are reviewable for the purposes of the Act (cl 262):

- to refuse to grant a passenger transport authorisation under cl 31(1)(a), (b) or (c); cl 32(1)(a) to (f); cl 96(a) or (b); cl 97(1)(b), cl 127(a) or (b); or cl 128(2);
- to impose conditions on an authorisation under cls 33(b), 98(1)(b) or 129(b);
- to refuse an application for the variation of the conditions of an authorisation under cls 35, 100 or 131;
- to vary the conditions of an authorisation on the CEO's or the Minister's own volition under clauses 35, 68, 100 or 131 on the CEO's or Minister's own initiative;
- to refuse to grant an application to vary a passenger transport vehicle authorisation to add or remove a category of passenger transport service under cl 133;
- to make a suspension order under cl 42(1)(a), (b), (d) or (e); cl 48(4); cl 79(1)(a), (c) or (e); cl 81(4); cl 106(1)(a), (b) or (d); cl 107(b); cl 109(4); cl 139(1)(b) or (d); or, cl 141(4);
- to make a cancellation order under cl 42(1)(a), (b), (d) or (e); cl 79(1)(a), (c) or (e); cl 106(1)(a), (b) or (d); or cl 139(1)(b) or (d);
- to issue an improvement notice under cl 209; or
- any decision that is prescribed for the purposes of this Part.

Reconsideration by decision maker

- A person aggrieved by a reviewable made by the CEO or the Minister may request the decision-maker in writing, to reconsider the decision (cl 263).
- The request must be made within 28 days after the day on which the notice of the decision was received, or within a longer period as allowed by the decision-maker.
- The request for reconsideration must state the decision that the person wants the decision maker to make after reconsideration and outline why the decision-maker should make that decision.
- The decision-maker must reconsider the reviewable decision within 28 days after receiving the request and either confirm, amend or set aside the decision and make a new decision.
- The person who made the request must be notified of the result of the reconsideration in writing.

Review by state administrative tribunal

- A person who is aggrieved by a reviewable decision, or the decision made by the decision maker on reconsideration of the reviewable decision, may apply to the State Administrative Tribunal for a review of the decision (cl 262).
- An application to the State Administrative Tribunal for review of a decision must be made within 28 days after the person is notified of the decision for which a review is sought.

Part 11 – Regulations

Part 11 sets out the regulation making powers of the Act. These include:

- general regulation making powers including for:
 - Accessibility of passenger transport services to different classes of passengers;
 - Prescribing forms;
 - Prescribing fees and charges for matters under this Act;
 - Prescribing offences in regulations;
- Regulations to prescribe safety standards that must be met by those persons with a key role in the passenger transport industry, being providers of on-demand booking services, providers of passenger transport services, providers of passenger transport vehicles and passenger transport drivers, as well as associated offences;
- Regulations to prescribe requirements applicable to passenger transport authorisations granted under the Act, such as the information to be provided by applicants and holders of authorisations;
- Regulations prescribing disqualification offences for drivers, on-demand booking service providers, and responsible officers and close associates of on-demand booking service providers.;
- Regulations prescribing general requirements to be applied to on-demand booking services, passenger transport services, passenger transport vehicles and passenger transport drivers;
- Regulations for safety, security and order of passengers and drivers;
- Fares regulation;
- Regulation of the provision of subsidies for the use of passenger transport services; and
- Regulations to support the operation of the on-demand passenger transport levy.

Part 12 – Miscellaneous

Part 12 deals with matters relevant to the administration of the Act generally.

Serving of documents

- Sets out the ways in which a document required or authorised under the Act is to be given to a person and the timeframes for when a document is deemed to be given (cl 283). A document given to a responsible officer of an on-demand booking service is taken to have been given to the provider of that service.

Others may perform functions

- Under this Act the CEO will be the authority responsible for most aspects of the regulation of road passenger transport services.
- The CEO may exercise powers and duties conferred on the CEO under this Act themselves, or delegate those powers or duties accordingly.
- The CEO may also enter into agreements for the performance of functions under the Act (cl 285).

Protection from liability

- A person (such as an employee), who performs a function under the provisions of this Act will not be able to be sued for damages arising from a loss suffered by another person as a result, provided the person performed the function in good faith (cl 286). This liability protection is extended to cover the Minister and the State of WA – i.e. they will not be held responsible for the actions of an employee who acted honestly and sincerely (known as ‘vicarious liability’).
- Similar protections are commonly provided in other similar statutes in Western Australia.

Offence to provide false or misleading information

- The CEO and other persons performing functions under this Act will require a range of information. It is essential that this information is accurate in order for the Act to be effectively administered and therefore it will be an offence for a person to provide information they know to be false or misleading. Penalty: \$5 000 (cl 288)

Compensation not payable

- No monetary consideration is required to be paid to any person because of the effect of a change to the status of, or statement or conduct relevant to the status of, an authorisation issued under this Act, or the removal of any existing right by or under this Act (cl 289). This includes rights conferred pursuant to current passenger transport related legislation repealed or amended by this Act.

Exemptions may be granted

- The Minister may, by order published in the *Gazette*, grant exemptions from the provisions of Parts 4 (authorisation of regular passenger transport service providers) and 6 (authorisation of providers of passenger transport vehicles) of this Act (cl 290).
- This will ensure that services such as school buses can be exempt from certain provisions of the Act, as occurs currently under the *Transport Co-ordination Act 1966* (WA).

Review of the act to be undertaken

- A review of the operation and effectiveness of the Act is to be carried out by the Minister as soon as practicable after 5 years from commencement (cl 291).

Part 13 – Transitional provisions

Part 13 provides for the transition from existing laws for the regulation of passenger transport services to this Act. Key provision made is as follows:

Holders of existing driver’s licences endorsed with F or T

- The *Road Traffic (Authorisation to Drive) Act 2008* currently regulates driving of motor vehicles to carry passengers for reward;
- It requires a person’s driver’s licence to be endorsed with extension ‘F’ or ‘T’ in order for them to lawfully drive a taxi or a vehicle used to charter passengers in any way;
- Part 5 of the Act will replace existing provisions for the regulation of drivers carrying passengers;
- From the commencement of Part 5 holders of driver’s licences endorsed with extension ‘F’ or ‘T’ will be able to continue to operate using their ‘F’ or ‘T’ endorsed licence until the prescribed date, by which they will need to have made application for and been granted a passenger transport driver authorisation. This will provide existing drivers with time to transition to a passenger transport driver authorisation under this Act (cl 294).

Owned taxi plates

- Part 6 of the Act provides for the authorisation of passenger transport vehicles;
- The owner, or a person with the consent of the owner, of a vehicle that has been operating as a taxi pursuant to owned plates under the *Taxi Act 1994* immediately before the commencement of Part 6, will be able to continue to operate that vehicle as a taxi for the prescribed period, as though the vehicle is authorised under the Act (cl 295).
- This person may or may not be the person who was the owner of the taxi plates that the vehicle was operated pursuant to under the *Taxi Act 1994*.
- As the ownership rights of plate owners will cease upon the granting of a buyback payment, former plate owners who participated in the buyback will not be provided with any transitional rights in connection with the commencement of Part 6 of the Act, unless they also happen to be the owner of the vehicle that was operated pursuant to the plates, or have the consent of that person.
- A plate owner who does not participate in the buyback will be taken on and from commencement day until the prescribed day to be the holder of an on-demand rank or hail vehicle authorisation for:
 - the vehicle that was subject to their plates provided they own that vehicle or have the consent of the vehicle owner; or
 - if they did not own the vehicle and no longer have consent of the vehicle owner that was subject to the plates to continue operating that vehicle, a “nominated vehicle” that they will be required to advise the CEO about.

Leased taxi plates

- Part 6 of the Act provides for the authorisation of passenger transport vehicles;

- The holder of leased plates issued under the *Taxi Act 1994* immediately before the commencement of Part 6, will be taken on and from commencement day to hold an on-demand rank or hail authorisation under the Act in respect of the vehicle that was subject to the plates (cl 296).
- Leased plate holders will have until the prescribed day, or until the anniversary of the payment of the annual fee for the plates under the Taxi Act to apply for and be granted a passenger transport vehicle authorisation. It is intended that this will operate for up to 12 months.

Licensed taxi-cars

- Part 6 of the Act provides for the authorisation of passenger transport vehicles;
- A person who immediately before commencement day held a country taxi-car licence issued under the *Transport Co-ordination Act 1966*, is to be taken on and from commencement day to be the holder of an on-demand rank or hail vehicle authorisation for the vehicle for the remainder of the term for which the licence was issued (cl 297).

Licensed omnibuses

- Part 6 of the Act provides for the authorisation of passenger transport vehicles;
- A person who immediately before commencement day held an omnibus licence issued under the *Transport Co-ordination Act 1966*, is to be taken on and from commencement day to be the holder of a vehicle authorisation for the vehicle for the remainder of the term for which the licence was issued (cl 298).
- The category of authorisation will align with the type of services the vehicle was permitted to use pursuant to the omnibus licence.

Part 14 – Repeals and consequential amendments

Part 14 provides for the necessary repeals and amendments to existing legislation to facilitate the transition from existing laws to this Act, and to ensure any laws relying on or interacting with the existing framework continue to operate as intended with the new provisions for regulation of road passenger transport services.