

Document tabled in accordance with
section 155B *Transport Operations (Passenger Transport) Act 1994*

In accordance with section 155B(1)(a) of the *Transport Operations (Passenger Transport) Act 1994* (the Act), this document attaches a draft of a Bill (the Transport and Other Legislation (Personalised Transport Reform) Amendment Bill 2017 (the draft Bill)) and accompanying draft explanatory notes, and a draft of proposed subordinate legislation (the *Transport and Other Legislation (Personalised Transport Reform) Amendment Regulation 2017* (the draft regulation)).

The amendments in the draft Bill and draft regulation will, on commencement, implement action in response to the following recommendations of the former Transportation and Utilities Committee (the committee) made in its report on the Heavy Vehicle National Law and Other Legislation Amendment Bill 2016, Report No. 27 of the 55th Parliament, November 2016 –

- recommendation 7 (Licence fee) to the extent it relates to introducing a proposed licensing system for booked hire services – refer to clause 18 of the draft Bill and part 3 (new part 7A, division 2 – Booked hire service licences) of the draft regulation;
- recommendation 22 (Compulsory Third Party (CTP) insurance) – refer to part 2 of the draft regulation (*note premium rates, levies and administrative fees are subject to regulated processes under the Motor Accident Insurance Act 1994 and will be finalised in conjunction with the making of the regulation amendments*);
- recommendation 24 (Cameras) – refer to part 3 (new part 7B – Vehicle security camera systems) of the draft regulation;
- recommendation 26 (Training for drivers providing wheelchair accessible services) – refer to part 3 (new part 7C – Required training for particular booked hire services and taxi services) of the draft regulation.

Section 155B(3)(c) of the Act also refers to committee recommendation 23 (Payment of registration and CTP insurance). The proposed action in response to this recommendation is to allow all personalised transport service providers (including taxi, limousine and booked hire operators) to pay vehicle registration and CTP insurance on a 3 monthly basis. This is able to be achieved administratively without legislative amendment and is proposed to be implemented as part of the second stage of the personalised transport reform program.

In addition to amendments relating to the abovementioned committee recommendations, the draft Bill contains the other amendments necessary to implement the second stage of personalised transport reforms. These amendments establish a modernised and simplified regulatory framework for personalised transport services that promotes greater choice for customers while ensuring safety, accessibility and accountability in relation to the provision of these services.

The draft regulation contains the amendments addressing specific committee recommendations, with drafting of other subordinate legislation amendments to implement the second stage of the reforms still being finalised.

Pursuant to section 155B(1)(b)(i) of the Act:

- It is proposed that a Bill substantially in accordance with the draft Bill be introduced into the Legislative Assembly during the sitting week commencing 21 March 2017; and
- It is proposed that subordinate legislation substantially in accordance with the draft regulation, along with other amendments to subordinate legislation necessary to implement the second stage of personalised transport reform, be made by the Governor in Council following the passage of the Bill.

In response to sections 155B(1)(b)(ii) and 155B(2) of the Act, it is proposed that commencement of the Bill and subordinate legislation will be phased to allow adequate time for implementation, with some provisions to commence on or before 9 June 2017.



Queensland

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

Contents

		Page
Part 1	Preliminary	
1	Short title	8
2	Commencement	8
Part 2	Amendment of Transport Operations (Passenger Transport) Act 1994	
3	Act amended	8
4	Amendment of s 12 (What is operator accreditation)	8
5	Replacement of s 15 (Duties of operators)	9
	15 Duty of operator	9
6	Amendment of s 24 (What is driver authorisation)	9
7	Amendment of s 26 (Driver authorisation standards)	9
8	Replacement of s 27 (Driver must hold appropriate authorisation)	9
	27 Driver must hold appropriate authorisation	9
9	Amendment of s 29 (Granting, renewing or refusing driver authorisation)	10
10	Amendment of s 29A (Restricted driver authorisation)	11
11	Replacement of s 35 (Obligation to notify accredited operator of suspension or cancellation of licence etc.)	11
	35 Driver's obligation to notify of suspension or cancellation of licence etc.	11
12	Amendment of s 35H (Restricted written release of information)	12
13	Omission of ch 4A (Taxi service bailment agreements)	12
14	Insertion of new s 36AA	12
	36AA No compensation for changes to market entry restrictions	12

Tabled Draft—9 March 2017

Contents

15	Amendment of s 39 (Scope of service contracts)	13
16	Omission of ch 6, pt 3 (Administration of taxi services)	13
17	Omission of chs 7, 7A and 8	13
18	Insertion of new ch 7	13
	Chapter 7 Personalised transport services	
	Part 1 Preliminary	
68	Main purpose of chapter	13
69	What is a taxi service	14
70	What is a booked hire service	15
71	What is a booking service	16
72	When a person provides a taxi service or booked hire service	17
73	What is relevant transport legislation	17
	Part 2 Taxi services and booked hire services	
	Division 1 Providing services	
74	Taxi service may only be provided using a taxi	17
75	Restriction on booked hire services for particular taxi service areas	19
76	Booked hire service may only be provided using particular motor vehicle	20
77	Restriction on providing booked hire services requested using fixed booking device	20
78	Booking services must be provided by authorised booking entity	21
	Division 2 Booking records for booked hire services	
79	Application of division	22
80	What is a booking record	22
81	Booking entity’s obligations	23
82	Driver’s obligations	23
	Part 3 Safety duties	
	Division 1 Preliminary	
83	Definitions for part	25
84	Persons in chain of responsibility	26
85	Relationship with other safety laws	27
	Division 2 Principles	
86	Principle of shared responsibility	28
87	Principles applying to duties	28

Division 3	Nature of primary duties	
88	Primary duty of care	29
89	Duty of executive officer of corporation	30
Division 4	Failing to comply with primary duties	
90	Reckless conduct—category 1	31
91	Failure to comply with duty—category 2	32
91A	Failure to comply with duty—category 3	32
Division 5	Duties relating to fatigue management	
91B	Duties relating to fatigue	32
91C	Regulation may impose other fatigue management duties or requirements	33
Part 4	Licences and authorisation for personalised transport services	
Division 1	Taxi service licences	
91D	What are taxi service licences	34
91E	Original taxi service licences	34
91F	Issue of taxi service licences	34
91G	Transfer of taxi service licences between taxi service areas	35
Division 2	Limousine licences	
91H	Limousine licences	36
91I	Term of limousine licences	36
Division 3	Booked hire service licences	
91J	What are booked hire service licences	37
91K	Issuing or refusing booked hire service licence	37
91L	Term of booked hire service licence	38
91M	Booked hire service licence not transferable	38
Division 4	General provisions for licences	
91N	Application of division	38
91O	Conditions of licence	39
91P	Amendment of licence	39
91Q	Notice to driver about licence	39
91R	Vehicle stated in licence	40
91S	Transfer, lease or surrender of licence	40
91T	Suspending and cancelling licence	41
91U	Register of licences	41

Tabled Draft—9 March 2017

Contents

Division 5	Booking entity authorisations	
Subdivision 1	Booking entity authorisations generally	
91V	What is booking entity authorisation and an authorised booking entity	42
91W	Granting or refusing booking entity authorisation ...	42
91X	Term of booking entity authorisation	43
91Y	Conditions of booking entity authorisation	44
91Z	Amendment of booking entity authorisation	44
91ZA	Suspension and cancellation of booking entity authorisation	45
91ZB	Transfer, lease or surrender	45
Subdivision 2	Local nominee	
91ZC	Application of subdivision	46
91ZD	Requirement for local nominee	46
91ZE	Local nominee is liable for offence against the Act ..	47
91ZF	Notices, information and place of business	47
Subdivision 3	General provisions	
91ZG	Obligation to keep and provide information	48
91ZH	Register of booking entity authorisations	48
Part 5	Enforcement	
Division 1	Suspension of driver licences for driver offences	
91ZI	What is a relevant driver offence	50
91ZJ	Chief executive may suspend driver licence	50
91ZK	General effect of suspension of driver licence	51
91ZL	Effect of suspension of driver licence on vehicle insurance	52
Division 2	Audits	
91ZM	Purpose of division	53
91ZN	Audit notice	53
91ZO	Failure to comply with audit notice	54
91ZP	Audit report	54
91ZQ	Direction to comply	55
Division 3	Other offences	
91ZR	Charging more than maximum fare	56
91ZS	Charging more than maximum payment surcharge for fare	57

	Part 6	General provisions	
	Division 1	Taxi service areas	
	91ZT	Taxi service areas	58
	91ZU	Public passenger service starting in taxi service area for a taxi	59
	91ZV	No compensation for changes to taxi service areas	60
	Division 2	Taxi industry security levy and fund	
	91ZW	Annual taxi industry security levy payable	60
	91ZX	Taxi Industry Security Fund	62
	Division 3	Other provision	
	91ZY	Personalised transport subsidy scheme	63
19		Amendment of s 100 (Direction to comply with standards)	63
20		Amendment of s 120 (Entry of place)	63
21		Omission of s 124A (Power to require limousines to be moved)	64
22		Omission of s 145 (Chief executive may declare particular motor vehicles)	64
23		Insertion of new ss 150B and 150C	64
	150B	Offences to be counted for particular penalty provisions	64
	150C	When a person has committed an offence	65
24		Amendment of s 153B (Facilitation of proof—general)	65
25		Amendment of s 154H (References to public passenger services in pt 2)	66
26		Amendment of s 155 (Regulation-making power)	66
27		Amendment of s 155A (Taxi and limousine industry assistance regulation)	67
28		Insertion of new ch 13, pt 18	67
	Part 18	Transitional provisions for Transport and Other Legislation (Personalised Transport Reform) Amendment Act 2017	
	208	Definitions for part	68
	209	Existing taxi service bailment agreements	68
	210	Existing taxi administration service contracts	68
	211	Existing taxi service areas	69
	212	Record of booking for a limousine service	69
	213	Suspension of taxi service licence or limousine service licence	69
	214	Reviews of decisions related to taxi service administration contracts	70

Tabled Draft—9 March 2017

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

Contents

	215	Reviews of decision relating to taxi service licences and limousine service licences	70
	216	No compensation	71
29		Amendment of sch 1A (Driver disqualification offences)	71
30		Amendment of sch 2 (Reviewable decisions)	71
31		Amendment of sch 3 (Dictionary)	72
Part 3		Amendment of Transport Operations (Road Use Management) Act 1995	
32		Act amended	76
33		Amendment of s 78 (Driving of motor vehicle without a driver licence prohibited)	77
34		Amendment of s 79 (Vehicle offences involving liquor or other drugs)	77
35		Amendment of s 87 (Issue of restricted licence to disqualified person)	78
36		Amendment of s 129A (Effect of suspension of licence under State Penalties Enforcement Act 1999)	78
Part 4		Other amendments	
37		Acts amended	79
Schedule 1		Acts amended	80
		Liquor Act 1992	80
		Tobacco and Other Smoking Products Act 1998	80
		Transport Infrastructure Act 1994	80
		Transport Planning and Coordination Act 1994	81

2017

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

Tabled Draft—9 March 2017

[s 1]

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

[s 9]

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) 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.

Tabled Draft—9 March 2017

[s 12]

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.

- 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.
- 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 and using vehicles that are safe; and

Tabled Draft—9 March 2017

[s 18]

- (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.

69 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 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.
- (4) In this section—

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—

 - (a) immediately or shortly after the vehicle and its driver are hired; and
 - (b) at the place or in the vicinity of the place where the vehicle and its driver are hired.

70 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 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; and

Example of a condition for using a public passenger service—

holding an account or membership to use the service
 - (c) that is not a taxi service.
- (2) For subsection (1), it does not matter where the

[s 18]

journey ends or if the journey involves leaving and re-entering Queensland.

71 What is a *booking service*

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

72 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.

73 What is *relevant transport legislation*

For this chapter, the following legislation is *relevant transport legislation*—

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

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—

Tabled Draft—9 March 2017

[s 18]

- (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 69(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 booked hire services for particular taxi service areas

- (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.

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.

Tabled Draft—9 March 2017

[s 18]

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 services requested using fixed booking device

- (1) A person must not provide a booked hire service requested by a person using 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.

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 of allowing a person to request a booked hire service to be provided for a journey that starts at the place.

78 Booking services 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

Tabled Draft—9 March 2017

[s 18]

- (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—

- (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.

Tabled Draft—9 March 2017

[s 18]

- (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—
 - (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;
- (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

Tabled Draft—9 March 2017

[s 18]

- (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 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 a 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.

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.
- (5) In this section—
safety law means—
 - (a) the *Work Health and Safety Act 2011*; or

[s 18]

- (b) the Heavy Vehicle National Law (Queensland).

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 this Act or the *Transport Operations (Road Use Management) Act 1995* is not, of itself, evidence that a person has discharged a duty under this part.

Division 3 Nature of primary duties

88 Primary duty of care

- (1) Each person in the chain of responsibility for a taxi service or a 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—

[s 18]

- (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 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

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

Tabled Draft—9 March 2017

[s 18]

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 failure 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 a 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 a 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 a 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
 - (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

Tabled Draft—9 March 2017

[s 18]

Division 1 Taxi service licences

91D What are *taxi service licences*

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 licences

- (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 taxi service licences

- (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 if its conditions are complied with; 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.
 - (7) A taxi service licence issued under this section is not transferable to another person.

91G Transfer of taxi service licences 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.

[s 18]

- (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 Limousine licences

- (1) A *limousine 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.
- (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 licences

- (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

91J What are *booked hire service licences*

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—

Tabled Draft—9 March 2017

[s 18]

- (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.

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 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

[s 18]

provide a taxi service or a 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

A regulation may provide for—

- (a) an original taxi service licence or limousine licence to be transferred to another person; or
- (b) a licence to be leased or surrendered.

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—
 - (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;

[s 18]

- (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.

Division 5 Booking entity authorisations

Subdivision 1 Booking entity authorisations generally

91V What is *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 or refusing booking entity authorisation

- (1) A regulation may provide for granting, or refusing

- to grant, a booking entity authorisation.
- (2) If an applicant for a booking entity authorisation is a foreign person, the application for booking entity authorisation must include—
 - (a) the name and contact details of the applicant's proposed local nominee; and
 - (b) the proposed local nominee's signed written consent to the appointment in the approved form; and
 - (c) 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, including, for 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

- (1) A booking entity authorisation is for the term, of not more than 5 years, stated in the authorising document.
- (2) A booking entity authorisation may be granted on a renewable or non-renewable basis.
- (3) For a booking entity authorisation granted on a renewable basis—
 - (a) the first term of the authorisation must be less than 5 years; and

[s 18]

- (b) the authorisation may be renewed for 1 or more successive terms if its conditions are complied with; and
- (c) the sum of the terms of the authorisation must be not more than 5 years.
- (4) A booking entity authorisation granted on a non-renewable basis must not be renewed.
- (5) However, before a booking entity authorisation expires, the holder of the authorisation may apply for another booking entity authorisation to replace the expiring authorisation.

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.

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 current local nominee; or
 - (ii) 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

[s 18]

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 appoint 1 person to be its local nominee.
- (2) The appointed person must be—
 - (a) an individual who usually lives in Australia; or
 - (b) a corporation incorporated in Australia.
- (3) For this chapter, the authorised booking entity's *local nominee* is—
 - (a) the person stated in the entity's application for booking entity authorisation under section 91W(2); or
 - (b) if the entity has given the chief executive a notice under subsection (4)—the person stated in the latest notice given to the chief executive under that subsection.
- (4) The authorised booking entity may appoint another person to be its local nominee by giving a written notice to the chief executive—
 - (a) in the approved form; and
 - (b) accompanied by the other person's signed written consent to the appointment in the approved form.

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 an 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 Notices, information and place of business

- (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, other than a notice under section 91ZD(4), or information given to the chief executive under this Act by an authorised booking entity's local nominee is taken to have been given

[s 18]

to the chief executive by the authorised booking entity.

- (3) For chapter 11, a place of business of an authorised booking entity's local nominee is taken to be a place of business of the 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 provided using a motor vehicle 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) the authorised booking entity's name and business name (if any);
 - (b) if the 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 the 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

Tabled Draft—9 March 2017

**Division 1 Suspension of driver
licences for driver
offences**

91ZI What is a *relevant driver offence*

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).

91ZJ Chief executive may suspend driver licence

- (1) This section applies if a person has, within a 3-year period, committed 3 or more relevant driver offences.

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) The chief executive may suspend the person’s driver licence for a period of 1 month.
- (4) The chief executive suspends a person’s driver licence under subsection (3) by giving the person

a written notice stating the following—

- (a) the person's driver licence is being suspended;
 - (b) the day the suspension starts, which must be at least 7 days after the day the notice is given;
 - (c) the day the suspension ends;
 - (d) the reasons for the suspension;
 - (e) the person may not apply to the chief executive for reconsideration of the decision or to QCAT for a review of the decision.
- (5) The person's driver licence is suspended for the period stated in the notice.
- (6) In this section—

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

91ZK General effect of suspension of driver licence

- (1) This section applies if the chief executive suspends a person's driver licence under section 91ZJ.
- (2) While the person's driver licence is suspended—
- (a) if the person holds a Queensland driver licence—the person's Queensland driver licence is suspended; and
 - (b) if the person's authority to drive on a Queensland road is under a driver licence other than a Queensland driver licence—the person's authority under the licence to drive on a Queensland road is suspended; and

Tabled Draft—9 March 2017

[s 18]

- (c) if the person does not hold a driver licence—the person is disqualified from holding or obtaining a driver licence; and
- (d) 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)(d) 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 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 a 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—
 - (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 a 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

[s 18]

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 an immediate 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
 - (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

Tabled Draft—9 March 2017

[s 18]

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

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 a 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.

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 a 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

Tabled Draft—9 March 2017

[s 18]

- (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

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).

[s 18]

91ZV No compensation for changes to taxi service areas

- (1) Compensation is not payable if the chief executive, under section 91ZT—
 - (a) declares a taxi service area; or
 - (b) amends or repeals the declaration of a taxi service area; or
 - (c) fixes the number of taxi service licences for a taxi service area; or
 - (d) amends the number of taxi service licences fixed for a taxi service area.
- (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 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.

[s 18]

91ZX Taxi Industry Security Fund

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

Division 3 Other provision

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 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.

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

Section 100(3)(a), ‘or operate’—
omit.

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 a booked hire service to whom an audit notice has been given under section 91ZS and the authorised person reasonably believes it is necessary to enter the place to carry out the audit; or

Tabled Draft—9 March 2017

[s 21]

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.

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);
 - (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 150B;
 - (b) section 91ZJ;
 - (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 person has paid the fine for the infringement notice 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—

[s 25]

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 the 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’—

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)(d), after ‘passenger vehicles’—

insert—

and other vehicles used to provide public passenger services

(4) 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—

Part 18

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

Tabled Draft—9 March 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 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 section 80 of the Act, as

in force before the commencement, 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.

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

[s 28]

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.

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—

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—

Tabled Draft—9 March 2017

[s 31]

- 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 relevant transport legislation within a stated period

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 70.

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

[s 31]

section 71.

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.

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(3).

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 72.

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 73; or
- (b) for chapter 11—see section 110.

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 69.

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—

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—

[s 32]

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 (h).

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

insert—

(g) a vehicle while it is being 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.

- (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 the 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

Tabled Draft—9 March 2017

[s 35]

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

(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 91ZK(2)(c).

Maximum penalty—20 penalty units or 18 months imprisonment.

Part 4 Other amendments

37 Acts amended

Schedule 1 amends the Acts it mentions.

Tabled Draft—9 March 2017

Schedule 1 Acts amended

section 37

Liquor Act 1992

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

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 Planning and Coordination Act 1994

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

omit.

Tabled Draft—9 March 2017

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

Explanatory Notes

Short title

The short title of the Bill is the Transport and Other Legislation (Personalised Transport Reform) Amendment Bill 2017.

Policy objectives and the reasons for them

Queensland's taxi and limousine industries are heavily regulated under the *Transport Operations (Passenger Transport) Act 1994 (TOPTA)* which is administered by the Department of Transport and Main Roads (TMR). The legislation regulates market entry restrictions, driver authorisation and operator accreditation requirements, vehicle requirements, fares, safety and security measures, customer service standards, accessibility measures and driver conditions.

The emergence of new technology based innovations in recent years has transformed the market for personalised transport services, including taxi, limousine and ride-booking services. At a time of significant structural change in this sector, it is important to provide a policy and regulatory framework that acknowledges existing, new and potential industry participants and allows existing businesses to adjust while also accommodating new market entrants.

In October 2015, the Queensland Government commissioned the independent Opportunities for Personalised Transport Review (**OPT Review**) to ensure that government regulation supports delivery of personalised transport services that meet the needs and expectations of the Queensland community. Following completion of the OPT Review, the Queensland Government released *Queensland's Personalised Transport Horizon: Five Year Strategic Plan for Personalised Transport Services 2016-2021 (Strategic Plan)* on 11 August 2016. The Strategic Plan includes measures to comprehensively reform Queensland's personalised transport industry.

The main aims of the personalised transport reform program are to:

- strengthen safety standards for the whole personalised transport industry;
- provide customers with greater choice and flexibility;
- drive innovation and improved customer service standards through reduced red tape; and
- ensure accountability and clearly define obligations across the industry.

A further overarching objective of reform is to provide a more equitable regulatory framework across the personalised transport industry.

The first stage of the government's reform program was implemented through amendments to the *Transport Operations (Passenger Transport) Regulation 2005* and other subordinate legislation. These amendments provided customers with greater choice by allowing booked hire services to be provided in vehicles other than taxis without a taxi service licence, strengthened safety standards and provided a regulatory framework that applies to all personalised transport services.

The second stage of the reform program involves significant amendments to TOPTA and other primary and subordinate legislation to implement comprehensive industry reform, including the introduction of a new licensing framework for booked hire services and a new industry chain of responsibility. The purpose of this Bill is to give effect to the second stage of reform. Necessary amendments to subordinate legislation will be progressed following passage of the Bill.

Achievement of policy objectives

Strengthen safety standards

Measures in the Bill to strengthen safety standards across the personalised transport industry include:

- imposing a primary safety duty on industry participants as part of a new chain of responsibility with significant penalties attached for non-compliance;
- imposing a general duty relating to the management of fatigue of drivers and a power to make regulations imposing other requirements about managing driver fatigue;
- extending the requirement for a zero blood alcohol concentration to any person who drives, attempts to put in motion or is in charge of a motor vehicle being used to provide a public passenger service;
- providing a specific power to make regulations relating to the use of security cameras and other recording devices in vehicles used to provide public passenger services.

Provide greater customer choice and flexibility

Measures in the Bill to encourage customer choice within a more equitable regulatory framework that requires all personalised transport services to be licensed include:

- introducing a new licensing framework for booked hire services;
- preserving existing taxi service licences and introducing a framework for new taxi service licences;
- preserving existing limousine service licences and allowing limousines to be used to provide booked hire services;
- providing for special purpose limousine licences to not be renewed after a date to be prescribed by regulation;
- removing provisions relating to peak demand taxi permits; and
- allowing for the Taxi Subsidy Scheme to be extended to booked hire vehicles and limousines by regulation, if this is considered appropriate in the future.

Drive innovation and improved customer service standards

Measures in the Bill to reduce red tape and allow industry to innovate and improve their service offerings include:

- removing provisions relating to service contracts for the administration of taxi services, including the requirement for a person administering taxi services to hold a service contract, and replacing service contracts with a simplified booking entity authorisation regime;
- removing provisions relating to taxi service bailment agreements between operators and drivers, given this is a workplace relations matter and protections are provided for in other legislation;
- continuing the Taxi Industry Security Levy while giving the chief executive discretion to not charge the levy for a particular financial year; and
- allowing maximum fares to be specified for all taxi services, and for booked hire services for certain passengers or types of vehicles or in certain service areas.

Ensure accountability and clearly defined obligations

Measures in the Bill to ensure industry accountability include:

- establishing a new chain of responsibility to ensure each responsible party involved in providing taxi and booked hire services takes reasonable steps to prevent the commission of an offence and minimise risk (including booking entities who arrange bookings, operators who provide services and drivers of those services);
- introducing a new booking entity authorisation regime for booking entities;
- imposing significant financial penalties and non-financial sanctions for the provision of unauthorised taxi or booked hire services, including significantly higher financial penalties for repeat offenders and driver licence suspension for drivers of unauthorised services;
- establishing audit powers for investigating compliance with relevant transport legislation relating to taxi and booked hire services; and
- allowing a regulation to be made requiring provision of service-related data in relation to taxi and booked hire services.

Other amendments

Other amendments in the Bill relating to personalised transport reform include:

- allowing a regulation to prescribe a maximum payment surcharge for fares for taxi and booked hire services;
- clarifying that operator accreditation and driver authorisation can be granted for a particular kind of public passenger service and that relevant offences will apply if operator accreditation or driver authorisation is not held in relation to the particular kind of service being provided;
- providing that compensation is not payable in relation to the enactment of the Bill, or in relation to certain changes to market entry restrictions under TOPTA;

- extending the matters for which evidentiary certificates can be provided to facilitate the prosecution of relevant offences;
- amendments to various definitions under TOPTA to support the new regulatory framework, including key definitions of *booked hire service*, *booking service*, and *taxi service*; and
- minor consequential amendments to various Acts, including the *Liquor Act 1992*, *Tobacco and Other Smoking Products Act 1998*, *Transport Planning and Coordination Act 1994* and *Transport Infrastructure Act 1994*.

Alternative ways of achieving policy objectives

The amendments contained in this Bill are the result of extensive policy analysis and consultation with the personalised transport industry and other stakeholders, both during the OPT Review and since the release of the Strategic Plan. Various policy options have been considered in determining how best to achieve the objectives of personalised transport reform. The amendments contained in this Bill are considered the best way of achieving these objectives.

Government regulation will be maintained only to the extent necessary to ensure safety, equitable access and accountability in the provision of personalised transport services. Less government regulation will encourage more innovation in the delivery of services leading to improved customer outcomes. Consumer benefits resulting from personalised transport reform are expected to be large and include more competitive fares, shorter waiting times, higher quality services and greater convenience.

Estimated cost for government implementation

As part of the personalised transport reform program, a \$100 million Industry Adjustment Assistance Package (IAAP) is being provided to assist the existing taxi and limousine industry to transition to a more competitive market and relieve industry's financial hardship resulting from the reforms. The IAAP includes transitional assistance payments, an industry hardship fund, business advisory services, fee waivers, and a \$20 Lift Payment for drivers of wheelchair accessible services provided to Taxi Subsidy Scheme members.

This Bill does not include provisions relating to the IAAP. TOPTA was amended in December 2016 to include a power to make regulations providing a scheme for administration of the main elements of the IAAP (see section 155A). The *Taxi and Limousine Industry Assistance Scheme Regulation 2016* provides a scheme for administration of transitional assistance payments. It is intended to make a further regulation providing a scheme for administration of the hardship fund.

Costs associated with the new booked hire service licensing and booking entity authorisation regimes will be recovered through the introduction of associated licence and authorisation fees.

Additional costs of implementation will be met from existing departmental resources.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles (FLPs). However, where an amendment raises an FLP issue, the justifications are outlined below.

Taxi administration service contracts (clause 16 – Omission of ch 6, pt 3 (Administration of taxi services))

The proposal to remove taxi administration service contracts may raise FLP issues in ending existing contractual rights of taxi booking companies. This is justified on the basis that these are non-financial contracts that impose minimum service levels and other obligations on taxi booking companies. Further, the contracts do not provide any exclusivity to provide taxi booking services; that is, TMR can enter into a service contract with anyone who wishes to operate such a service. Removal of these contracts will reduce red tape for taxi booking companies and administration costs for TMR.

Taxi and limousine service areas (clause 14 – Insertion of new s36AA and clause 18 – Insertion of new ch 7 - section 91H(4))

Taxi service areas may be reviewed in future to determine whether adjacent taxi service areas should be merged in the public interest. Further, the Bill will remove limousine service areas so that limousines can operate anywhere in Queensland. As the value of taxi and limousine service licences differs depending on the service area to which the licence relates, licence values may be affected by changes to service areas. The Bill will provide that compensation is not payable in relation to these changes.

While this may be considered to raise FLP issues relating to the abrogation of valuable property rights under existing taxi and limousine service licences, this is justified on the basis that changes to service areas will occur where it is in the public interest, for example where efficiencies will be gained or it is necessary to meet public demand for cross-area services. Further, retention of limousine service areas would create inequity and be unnecessarily restrictive on limousines given booked hire services provided under a booked hire service licence will not be subject to geographical restrictions.

Special purpose limousine licences (clause 18 – Insertion of new ch 7 – section 91I(4))

The ability to prescribe a date after which special purpose limousine licences must not be renewed may affect the perceived rights of these licence holders. However, these are annual licences similar to the new booked hire service licences which effectively permit the holder to provide the same services for the same term as the holder of a new booked hire service licence. It is therefore appropriate to phase out special purpose limousine licences by prescribing a date by regulation after which these licences must not be renewed. This is also consistent with the chief executive's existing discretion to renew (or not renew) these licences.

The ability of holders of these licences to provide booked hire services will not be materially impacted as they will continue to be able to do so under a booked hire service licence. The proposed period of 3 years to phase out these licences will allow time for licence holders to adjust to this change.

Chain of responsibility (clause 18 – Insertion of new ch 7 – part 3)

The introduction of a primary duty of care may raise FLP issues relating to the rights and liberties of individuals as the duty will apply to various persons who were not previously subject to these obligations. The primary duty will apply to the persons to the extent they perform certain functions in the provision of taxi and booked hire services and will require each person in the chain of responsibility to, as far as reasonably practicable, ensure the safety of drivers, passengers and other road users.

The introduction of the chain of responsibility recognises that persons other than the driver may be responsible for a breach of the relevant requirements that relate to safety. The persons identified as part of the chain perform functions that are integral to the provision of personalised transport services that can influence or exercise control over the level of safety applied to the provision of personalised transport services.

The application of the new duty of care is intended to increase fairness by providing for penalties to be imposed on all persons responsible for breaches of the relevant safety requirements. Further it is expected that the duty of care will create greater incentives for compliance with the relevant safety requirements.

These provisions are modelled on provisions in the Heavy Vehicle National Law (Queensland) that have been adopted for the heavy vehicle industry. The introduction of chain of responsibility provisions and the duty of care are justified in the interests of public safety.

New penalty regime for provision of unauthorised services (clause 8 – section 27 and clause 18 – Insertion of new ch 7 – sections 74, 75, 76, 77 and 78)

The proposal to introduce a new, more robust, penalty regime for the provision of unauthorised personalised transport services may raise FLP issues by significantly increasing existing penalties in cases of repeat offenders and offences committed by a corporation rather than an individual.

Proposed penalties for the first offence are broadly consistent with the current penalties for unauthorised services and will increase significantly for subsequent offences. It is intended that the maximum penalty for a person who is a body corporate will be five times the maximum penalty for individuals under section 181B of the *Penalties and Sentences Act 1992*.

While the new penalty regime will impose increased penalties of up to ten times the current amount for subsequent offences, this is considered proportionate to the seriousness and repeated nature of the offence. The new penalties will act as a deterrent and assist TMR to effectively enforce the new regulatory framework. This approach is also consistent with New South Wales which has imposed significant financial penalties in similar circumstances.

Driver licence suspension (clause 18 – Insertion of new ch 7 – part 5, division 1)

The proposal to suspend a driver's driver licence if they are convicted of committing specified personalised transport related offences on three or more occasions may raise FLP issues as the suspension will not be subject to further review or appeal.

The driver licence suspension will apply to relevant driver offences, including where the driver does not hold driver authorisation or is using a vehicle that is not properly licensed or a booking

entity that is not authorised to provide the service. The suspension of driver licences is proposed because historically, drivers committing these types of offences have not been deterred by traditional financial penalties. Research shows that loss of driver licence is a very effective deterrent.

It is important that the suspension not be subject to any review or appeal, because such processes will effectively delay the operation of any suspension, allowing the person to continue to offend until the reviews and appeals are exhausted. The proposed approach is justified because the licence suspension will not apply until the third offence is committed, and administrative processes will be in place so the driver will be informed after the second offence that any further offence will lead to the licence suspension. This will give the person ample opportunity to adjust their behaviour to avoid the suspension.

Booking entity authorisation – local nominee (clause 18 – Insertion of new ch 7 – part 4, division 5, subdivision 2)

The proposal to impose liability on a local nominee of a foreign authorised booking entity for acts or omissions of the booking entity may raise FLP issues in relation to derivative liability. However, this is considered justified on the grounds that the nominee consents to the nomination, the nominee is likely to be wholly controlled by the authorised booking entity and doing so is broadly consistent with the imposition of penalties under the *Corporations Act 2001* for local agents.

Provisions that allow a regulation to prescribe circumstances where an offence in the Act will not apply (Henry VIII clauses) (clause 18 – Insertion of new ch 7 – new sections 74(4), 76(2), 78(2)(b))

There are clauses in the Bill which will allow a regulation to prescribe circumstances where the offence outlined in the Bill will not apply. This may raise an FLP issue as, in effect, it may impliedly amend the operation of the Act provision. The particular provisions in this Bill are as follows:

- New section 74 makes it an offence to provide a taxi service in a vehicle other than a taxi. However, section 74(4) will allow a regulation to prescribe when a vehicle other than a taxi may be used to provide the service.
- New section 76 makes it an offence to provide a booked hire service in a vehicle that is not a booked hire vehicle, limousine or taxi. However, section 76(2) will allow a regulation to prescribe when another vehicle may be used to provide the service.
- New section 78 makes it an offence to provide booking services for a booked hire service unless the person holds a booking entity authorisation. However, section 78(2)(b) will allow a regulation to prescribe circumstances when a person who is the driver can provide booking services without a booking entity authorisation.

Allowing a regulation to provide exceptions from compliance with the Act has previously been accepted as appropriate for the regulation of public passenger services, see for example, sections 70(4) (about taxi services), 12(2)(c) (about operator accreditation) and 24(2)(c) (about driver authorisation). The occasions where the exceptions have been prescribed in a regulation demonstrate the practical nature of how these provision are used (see, for example, sections 17, s42 and s52A of the *Transport Operations (Passenger Transport) Regulation 2005*).

The proposed approach is further justified because the personalised transport reforms are innovative and allowing a regulation to prescribe exceptions from offences outlined in the Act will assist in facilitating the effective application of this innovative scheme. The proposed approach is designed to promote flexibility and allow for a level of practical detail necessary for efficient operation of the Act provisions in an environment where industry and community expectations are rapidly changing. Any exceptions prescribed by regulation will still be subject to scrutiny and possible disallowance by Parliament through the usual regulation making processes.

Immediate suspension of licences and booking entity authorisations without review or appeal (Clause 18 – sections 91T(2)(b) and 91ZA(2)(b))

Under proposed sections 91T(2)(b) and 91ZA(2)(b), a regulation will be able to prescribe for immediate suspension of a booked hire service licence, taxi service licence or limousine licence or booking entity authorisation including on grounds that the chief executive believes it is necessary in the public interest. It is not intended the immediate suspension will be subject to any review or appeal. This may raise FLP issues relating to whether the Bill has sufficient regard to the ensuring the rights of holders of licences and booking entity authorisations subject to administrative power are sufficiently defined and subject to appropriate review.

One of the grounds for immediate suspension in section 91T is non-compliance with vehicle requirements (section 91T(2)(b)(i)). In the context of the provision of public passenger services, non-compliance with vehicle requirements is justified as a ground for immediate suspension of the licence related to the vehicle on the grounds of safety.

One of the grounds for immediate suspension in section 91ZA is if an authorised booking entity who is a foreign person does not have a current local nominee (section 91ZA(2)(b)(i)). This is justified as a ground for immediate suspension as the appointment of a local nominee is critical to ensuring foreign authorised booking entities can be held accountable for their conduct including safety obligations.

Both sections 91T and 91ZA allow for immediate suspension when the chief executive considers it necessary in the public interest. The ground is broadly framed to ensure that the chief executive can take immediate necessary action in a variety of circumstances that may arise and this approach is consistent with other existing provisions in the Act (see for example, sections 32(3) and 79(3) which allow immediate suspension of driver authorisation or taxi service licences in the public interest).

It is not intended to allow for review or appeal of an immediate suspension because an immediate suspension is designed to ensure inappropriate conduct ceases immediately. Any review or appeal process has the potential to delay the operation of the suspension and thereby allow the party to continue operating – effectively undermining the intent of the provision.

However, any negative consequence for a licence or authority holder is mitigated as an immediate suspension is only a temporary state. If the chief executive decides the licence or authority should be suspended beyond the timeframes or that it should be cancelled, the chief executive will, through the regulation provisions trigger the usual show cause processes. These provisions allow the licensee or authority holder to respond to any allegations, and if the licensee or authority holder does not agree with the final decision on a show cause action, they will be able to appeal to the Queensland Civil and Administrative Tribunal (see Chapter 10 TOPTA).

Provisions that allow regulations to prescribe matters such as grounds for amending, suspending or cancelling licences and booking entity authorisations (Clause 18 – new Chapter 7 – Part 4)

Proposed Chapter 7, Part 4 will allow regulations to prescribe a general power to amend a taxi service licence (section 91P) and, as mentioned above, to outline grounds for suspension or cancellation of licences (section 91T) and booking entity authorisations (section 91ZA). This may raise FLP issues as to whether these types of matters are appropriate for subordinate legislation.

As mentioned above, the personalised transport environment is rapidly changing. Allowing subordinate legislation to address these matters is justified because it ensures the legislative scheme is sufficiently flexible and responsive to industry issues and community expectations. Any provisions prescribed to address the matters outlined will be subject to the scrutiny and possible disallowance by Parliament through the usual regulation making processes.

Consultation

Extensive community consultation on personalised transport reform was undertaken as part of the OPT Review.

Following announcement of the government's reform program, the Personalised Transport Industry Reference Group (PTIRG) was established to provide an avenue for stakeholder engagement and input. PTIRG membership includes representatives from sectors including the taxi, limousine and ride-booking industries; consumer, driver, motorist and tourism advocacy groups; and social and disability access groups.

Broad public consultation on personalised transport reform was also undertaken during the Transportation and Utilities Committee's consideration of the Heavy Vehicle National Law and Other Legislation Amendment Bill 2016 in late 2016 which included provisions relating to the IAAP.

A series of workshops were also held in late 2016/early 2017 to ensure broader stakeholder engagement and consultation. Workshop topics included the IAAP, accessibility, accountability and safety.

Key themes identified through consultation include safety, the need for an equitable regulatory framework and financial assistance for existing taxi and limousine industry participants to transition to the new framework.

The Department of the Premier and Cabinet, Queensland Treasury, the Department of Justice and Attorney-General, Queensland Health and the Queensland Police Service were consulted on the proposed amendments and are broadly supportive.

The Queensland Productivity Commission was also consulted in relation to the Regulatory Impact Statement System.

Consistency with legislation of other jurisdictions

The personalised transport reform model is broadly consistent with approaches adopted in all other Australian jurisdictions in encouraging greater customer choice in the booked hire services market while maintaining regulation in necessary areas such as safety.

DRAFT

Notes on provisions

Part 1 Preliminary

Clause 1 states that the Bill, when enacted, may be cited as the *Transport and Other Legislation (Personalised Transport Reform) Amendment Act 2017*.

Clause 2 states that the amendments contained in the Bill will commence on a day to be fixed by proclamation. The amendments are proposed to commence in stages to allow sufficient time for implementation. While some amendments can commence in June 2017 once consequential amendments to subordinate legislation are made, the more significant amendments establishing a new licensing and authorisation regime under chapter 7 of TOPTA are not proposed to commence until later in 2017. This will allow time for completion of systems changes to support these provisions and for industry to adjust its business practices to comply with the new framework.

Part 2 Amendment of the Transport Operations (Passenger Transport) Act 1994

Clause 3 states that part 2 of the Bill amends TOPTA.

Clause 4 amends section 12 to clarify that operator accreditation is for a particular kind of public passenger service. Operator accreditation is a qualification an operator of a public passenger service of a particular kind must hold to provide a service of that kind, subject to limited exceptions.

Clause 5 replaces section 15 with a new section providing an offence for an operator of a kind of public passenger service for which operator accreditation is required to provide the service unless the operator holds operator accreditation (or provisional operator accreditation) for a service of that kind.

It is proposed to exclude operators of taxi services and booked hire services from the requirement to hold operator accreditation by regulation under section 12(2) of TOPTA following passage of the Bill. Any safety related requirements currently imposed through operator accreditation will continue to be imposed on these operators. This will be achieved through the new chain of responsibility and specific requirements in subordinate legislation such as the requirement to comply with a documented vehicle maintenance program.

Clause 6 replaces section 24 with a new section to clarify that driver authorisation relates to a particular kind of public passenger service. Driver authorisation is a qualification a driver of a vehicle used to provide a kind of public passenger service must hold to drive the vehicle to provide a service of that kind. The intention is that drivers of taxi and booked hire services must hold a driver authorisation for those particular kinds of services.

Clause 7 makes a minor amendment to section 26 relating to driver authorisation standards to refer to 'drive' instead of 'operate' in the context of the requirement to operate a vehicle safely.

Clause 8 replaces section 27 with a new section making it an offence for a person to drive a vehicle to provide a kind of public passenger service for which driver authorisation is required unless the person holds driver authorisation (or provisional driver authorisation) for a service of that kind. Graduated maximum penalties apply to this offence, with repeat offenders facing significantly higher penalties. The driver's driver licence may also be suspended in certain circumstances under new section 91ZL.

Section 27 also creates an offence for a person to provide a kind of public passenger service for which driver authorisation is required unless the person uses drivers who hold driver authorisation (or provisional driver authorisation) for a service of that kind. This offence applies to an operator of the service and a person providing a booking service for the service.

Clause 9 amends section 29 to clarify that authorising documents may include information about the kinds of public passenger services that are authorised.

Clause 10 makes a minor amendment to section 29A relating to restricted driver authorisation to refer to a person being authorised to 'drive' instead of 'operate' a public passenger vehicle.

Clause 11 replaces section 35 with a new section requiring authorised drivers to immediately notify the operator or the person providing a booking service for the service if the driver's driver authorisation or a related licence or authorisation under another Act is suspended or cancelled.

Clause 12 amends section 35H to replace the words 'by electronic communication' with the word 'electronically', as a consequence of the removal of the definition of *electronic communication* from schedule 3 of TOPTA.

Clause 13 omits chapter 4A in relation to taxi service bailment agreements. A taxi service bailment agreement is a written agreement between an accredited operator and an authorised driver for the bailment of a taxi that is signed by both parties and includes information prescribed under a regulation. These agreements will no longer be regulated under TOPTA. Agreements with drivers are considered a workplace relations matter for the industry to manage subject to any applicable requirements under other legislation, such as the *Competition and Consumer Act 2010*.

Clause 14 inserts a new section 36AA clarifying that compensation is not payable in relation to the making, amendment or repeal of a regulation under section 36 of TOPTA. Section 36 allows for a regulation to declare that a public passenger service is to be provided with market entry restrictions where certain public interest criteria are met. This clause clarifies that the State is not required to compensate any person as a consequence of a regulation restricting market entry being made, amended or repealed. For example, no compensation is payable where a regulation restricting entry to the booked hire services market to taxis and limousines is made or repealed (see also clause 18, new section 75).

Clause 15 amends section 39 as a consequence of the omission of chapter 6, part 3 of TOPTA in relation to service contracts for the administration of taxi services (see clause 16).

Clause 16 omits chapter 6, part 3 in relation to service contracts for the administration of taxi services. The chief executive enters into these service contracts with taxi booking companies

for certain taxi service areas in Queensland. These contracts do not give the taxi booking companies any exclusive right to administer services in a particular taxi service area. As part of the reforms, taxi booking companies will no longer require a service contract with the chief executive to administer taxi services in Queensland. Instead, all persons providing booking services for booked hire services will require booking entity authorisation (see clause 18, new chapter 7, part 4, division 5 of TOPTA). Existing service contracts for the administration of taxi services will end on commencement of these amendments (see new section 210).

Clause 17 omits chapters 7 (Taxi service licences), 7A (Peak demand taxi permits) and 8 (Limousine service licences). These chapters will be replaced by a new chapter 7 regulating taxi services, booked hire services (including those provided in a limousine) and booking services. Provisions allowing for the issue of peak demand taxi permits will not be retained as regulations to give effect to these permits have never been made. It is intended that increased demand for services during peak periods will primarily be addressed through increased numbers of booked hire vehicles.

Clause 18 inserts a new chapter 7 of TOPTA to establish a new regulatory framework for the provision of taxi services, booked hire services and booking services in Queensland.

Chapter 7 Personalised transport services

Part 1 Preliminary

New section 68 outlines the main purpose of chapter 7, which is to regulate taxi services, booked hire services and booking services to ensure safety, accessibility and accountability in relation to the provision of these services. This purpose aligns with the objectives of personalised transport reform set out in the Strategic Plan.

The provisions in chapter 7 achieve these objectives by requiring a person to hold a licence to provide these services in a motor vehicle and that the vehicle meets other requirements; requiring entities providing booking services for booked hire services to be authorised; introducing a chain of responsibility for taxi and booked hire services under which all persons in the chain are responsible for ensuring the safety of their activities including managing driver fatigue; providing significant penalties to encourage compliance; and ensuring consumer protection for fares and payment surcharges.

New section 69 defines a *taxi service* as a public passenger service for a journey that starts in Queensland provided by the hire of a motor vehicle that has not more than 12 seating positions (including the driver's position) and a person to drive the vehicle; and under which the vehicle plies or stands for hire by members of the public in a public place. This replaces the current definition of *taxi service* in schedule 3 of TOPTA which encompasses both 'rank and hail services' (currently defined in schedule 11 of the *Transport Operations (Passenger Transport) Regulation 2005*) as well as hire services that are booked in advance.

The phrase 'plies or stands for hire' is also clarified in this section. The circumstances in which a vehicle plies or stands for hire by members of the public in a public place include where the vehicle is made available for hire on-the-spot by members of the public. A *hire on-the-spot* is defined in this section to mean 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, and at or in the vicinity of the place of the hire. Plying or standing for hire is intended to include, for example,

a vehicle standing at a taxi rank or other place where members of the public might reasonably expect taxis to be available for hire on-the-spot; or 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.

If a service is provided by the hire of a motor vehicle that has more than 12 seats and a driver, the service is considered a charter bus service rather than a hire service and is not intended to be regulated under new chapter 7 of TOPTA.

Under new section 74, taxi services may only be provided using a taxi, subject to limited exceptions. This preserves exclusive access to the rank and hail market for taxis, while allowing booked hire services to be provided in other vehicles.

New section 70 defines a *booked hire service* as a public passenger service for a journey that starts in Queensland:

- provided by the hire of a motor vehicle that has not more than 12 seating positions (including the driver's position), or is a limousine, and a person to drive the vehicle;
- that may be used by the public or a substantial part of the public, regardless of whether there is a condition of using the service; and
- that is not a taxi service.

The express inclusion of licensed limousines is to ensure the existing limousine fleet, which includes stretch motor vehicles with more than 12 seats, are included as vehicles providing booked hire services.

A 'substantial part of the public' would include, for example, women or people who are aged 50 years or older. A 'condition of using a booked hire service' would include, for example, holding an account or membership to use the service.

The definitions of taxi service and booked hire service are intended to be mutually exclusive. Under new section 76, booked hire services may only be provided using a booked hire vehicle, limousine or taxi.

New section 71 defines a *booking service* as a service under which a person arranges a booking for the person or another person to drive a motor vehicle to provide a booked hire service.

Subsections (2) and (3) clarify when a person 'arranges' a booking for a booked hire service. A person arranges a booking for himself or herself to drive the vehicle to provide the service by accepting the booking. This will apply where an individual takes bookings directly from the customer and is the only driver who provides the service. A person arranges a booking for another person to drive a motor vehicle to provide a booked hire service by arranging for the other person to accept the booking (if a booking system requires the driver to accept the booking); or by assigning the booking to the other person. The effect of these provisions is that any person arranging a booking will require booking entity authorisation, even if the person is also the driver (see new section 91V for meaning of *booking entity authorisation*).

Subsection (4) states that a booking may be accepted by or assigned to a driver in any way, for example in person, by telephone, or by using an electronic booking system. This would include a system that allows the driver to use an app on the driver's smart phone to accept bookings.

Subsection (5) clarifies that it does not matter whether a person arranging the bookings is in another State or outside Australia.

New section 72 defines a person who *provides* a taxi service or booked hire service using a motor vehicle to include a person who is the operator of the service; drives the vehicle; or, for a booked hire service, provides a booking service for the service. An *operator* will be defined in schedule 3 of TOPTA as a person carrying on the business of providing a public passenger service. The definition of *provides* is used in chapter 7 to regulate the provision of taxi and booked hire services by operators, drivers and booking entities, particularly in relation to the offences set out in part 2, division 1 (new sections 74 to 78).

New section 73 defines *relevant transport legislation* for chapter 7 to include TOPTA, the *Transport Operations (Road Use Management) Act 1995* and the *Motor Accident Insurance Act 1994*.

Part 2 Taxi services and booked hire services

Division 1 Providing services

New section 74 creates offences for providing unlicensed taxi services. The intention of these offences is to retain exclusive access to the ‘rank and hail’ market for taxis. Graduated maximum penalties apply to these offences, with repeat offenders facing significantly higher penalties. A driver’s driver licence may also be suspended for offences under section 74 in certain circumstances under new section 91ZL.

Subsection (1) prohibits a person from providing a taxi service using a motor vehicle that is not a taxi.

Subsection (2) prohibits a person in control of a motor vehicle that is not a taxi from engaging in conduct that involves the vehicle plying or standing for hire by members of the public in a public place. (New section 69(2) provides examples of when a vehicle plies or stands for hire.) However, subsection (3) clarifies that subsection (2) does not apply if the motor vehicle has more than 12 seating positions including the driver.

Subsection (4) provides for a regulation to prescribe certain taxi services to which the offences in section 74 do not apply. It is proposed to prescribe a *cross-border taxi service* by regulation under this provision so these services will not require a taxi service licence under TOPTA to provide for passenger travel across the Queensland border. Cross-border taxi services are currently defined in schedule 3 of TOPTA as certain taxi services provided using a NSW licensed taxi.

New section 75 applies where a regulation is made under section 36 of TOPTA declaring that a booked hire service is to be provided in a stated taxi service area using only a taxi or a limousine. In order to increase the level of public passenger services available and public access to these services in particular geographical areas, it may be necessary to make a regulation under section 36 restricting the market for booked hire services in specific taxi service areas to taxis and limousines. Under section 75 it will be an offence for a person to provide a booked hire service for a journey starting in the stated taxi service area using a vehicle other than a taxi or limousine. Graduated maximum penalties apply to this offence, with repeat offenders facing

significantly higher penalties. A driver's driver licence may also be suspended in certain circumstances under new section 91ZL.

New section 76 creates an offence for providing unlicensed booked hire services. It prohibits a person from providing a booked hire service using a motor vehicle that is not a licensed booked hire vehicle, taxi or limousine, unless the service is excluded by regulation. Graduated maximum penalties apply to this offence, with repeat offenders facing significantly higher penalties. A driver's driver licence may also be suspended in certain circumstances under new section 91ZL. It is not currently proposed to exclude any booked hire services from this offence by regulation.

New section 77 creates an offence for a person to provide a booked hire service requested by a person using a fixed booking device, unless it is provided in a taxi. A *fixed booking device* is defined in this section as a device fixed at a place that has the primary function of allowing a person to request a booked hire service where the journey starts at the same place.

This provision is intended to apply to fixed devices such as the 'taxi butler', which is an electronic booking system in a fixed location (for example, at a taxi rank or a hotel) that taxis use to arrange to pick up a person at that place by the person simply clicking a button to request the service. This system effectively operates as a rank and hail service, even though the vehicle does not ply or stand for hire at the location (for example, the vehicle may be parked in a location near or in the vicinity of a rank or a hotel). The offence in section 77 is intended to prohibit these types of booked hire services being provided in vehicles other than taxis.

Graduated maximum penalties apply to this offence, with repeat offenders facing significantly higher penalties. A driver's driver licence may also be suspended in certain circumstances under new section 91ZL.

New section 78 creates offences for providing unauthorised booking services for booked hire services. Subsection (1) prohibits a person from providing a booking service for another person to drive a vehicle to provide a booked hire service unless the person is an authorised booking entity. Subsection (2) prohibits a person from driving a motor vehicle to provide a booked hire service unless the booking for the service was arranged by an authorised booking entity. If the driver arranges bookings for himself or herself, the driver must hold booking entity authorisation. However, subsection (2)(b) allows a regulation to prescribe circumstances when a person who is the driver can provide booking services without a booking entity authorisation.

Graduated maximum penalties apply to offences under section 78, with repeat offenders facing significantly higher penalties. A driver's driver licence may also be suspended in certain circumstances under new section 91ZL.

Division 2 Booking records for booked hire services

New section 79 states that the requirements in division 2 do not apply to a booked hire service provided using a taxi. Persons providing booked hire services (other than in taxis) must demonstrate that they have a booking record for the service in order to ensure that taxis remain the exclusive provider of taxi services.

New section 80 defines *booking record* for the purposes of division 2.

New section 81 requires a person providing a booking service for a booked hire service to make a booking record; give a copy to the driver before the relevant journey starts; keep the record for at least 2 years after it is made; and produce it to an authorised person on request.

New section 82 requires a driver of a vehicle used to provide a booked hire service to carry the booking record while providing the service. The driver must also produce the record to an authorised person on request or allow the authorised person to enter the vehicle in certain circumstances where the record is displayed electronically. The driver's driver licence may also be suspended for this offence in certain circumstances under new section 91ZL.

Part 3 Safety duties

Division 1 Preliminary

The provisions of part 3 are modelled on, and intended to complement, chain of responsibility provisions contained in the Heavy Vehicle National Law (Queensland) (HVNL) and the *Work Health and Safety Act 2011* (WHS Act).

New section 83 provides definitions of *business practices*, *fatigue*, *reasonably practicable* and *safety risk* for part 3.

New section 84 defines who is a *person in the chain of responsibility* for a taxi service or a booked hire service. This includes an operator of the service; the holder of a taxi service licence, limousine licence or booked hire service licence for the service; the driver of a motor vehicle used to provide the service; a registered operator of a motor vehicle used to provide the service; a holder of booking entity authorisation under which a person provides booking services for the service (and the booking entity's local nominee, if they are a foreign person); and any other person who provides booking services for the service.

New section 85 clarifies that the safety duties under part 3 are complementary to the safety duties under the WHS Act and the HVNL but focus on the safety of taxi and booked hire services. The duties under the WHS Act and the HVNL apply in addition to part 3 of TOPTA and, to the extent of inconsistency, the WHS Act and the HVNL prevail. Where an act, omission or circumstances constitutes an offence under both part 3 of TOPTA and the WHS Act or HVNL, an offender is not liable to be punished more than once for the act, omission or circumstances.

Division 2 Principles

New section 86 states that 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, and that the level and nature of a person's responsibility depends on the person's functions, the nature of the safety risks and the person's capacity to control, eliminate or minimise the risks.

New section 87 clarifies that a person may have more than one duty because of their functions; more than one person can concurrently have the same duty; each person must comply with the duty even if another person has the same duty; if more than one person has a duty for the same

matter, each person is responsible and must discharge the duty to the extent the person has capacity to influence or control the matter; and a duty cannot be transferred. This section also clarifies that compliance with TOPTA or the *Transport Operations (Road Use Management) Act 1995* is not of itself evidence that a person has discharged a duty under part 3.

Division 3 Nature of primary duties

New section 88 creates a primary duty of care imposed on each person in the chain of responsibility for a taxi service or booked hire service to ensure, so far as is reasonably practicable, the safety of the person's activities relating to providing the service. Without limiting this general requirement, each person must eliminate safety risks, or minimise those risks to the extent it is not reasonably practicable to eliminate them; and ensure the person's conduct does not encourage another person in the chain of responsibility to contravene the provisions of TOPTA or the *Transport Operations (Road Use Management) Act 1995* relating to providing taxi and booked hire services or motor vehicles used to provide those services. Examples of activities that may be consistent with the primary duty include providing training to staff and other persons in the chain of responsibility on safe business practices and conducting regular maintenance of vehicles to ensure they remain compliant with vehicle standards and are safe to use on the road.

New section 89 creates an offence for an executive officer of a corporation with a primary duty under section 88 to fail to use due diligence to ensure the corporation complies with the duty. An *executive officer* of a corporation is defined in schedule 3 of TOPTA as a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

The executive officer may be convicted of this offence even if the corporation has not been proceeded against for, or convicted of, an offence relating to the primary duty. The maximum penalty is the penalty for a contravention of the primary duty by an individual. *Due diligence* is defined in this section and includes, for example, ensuring the corporation has appropriate resources and processes to eliminate or minimise safety hazards or risks.

Division 4 Failing to comply with primary duties

Division 4 (new sections 90, 91 and 91A) sets out the offence and penalty structure for failing to comply with the primary duty under section 88, which mirrors the HVNL and WHS Act.

A category 1 offence (section 90) applies where a person has a primary duty and without a reasonable excuse, engages in conduct that exposes an individual, or class of individuals, to a risk of death or serious injury or illness, and is reckless to the risk. The maximum penalty is 3000 penalty units or 5 years imprisonment (or both) for an individual and 30,000 penalty units for a corporation.

A category 2 offence (section 91) applies where a person has a primary duty, contravenes the duty and thereby exposes an individual, or class of individuals, to a risk of death or serious injury or illness. The maximum penalty is 1500 penalty units for an individual and 15,000 penalty units for a corporation.

A category 3 offence (section 91A) applies where a person has a primary duty and contravenes that duty. The maximum penalty is 500 penalty units for an individual and 5000 penalty units for a corporation.

Division 5 Duties relating to fatigue management

New section 91B imposes duties on persons in the chain of responsibility relating to driver fatigue. Managing fatigue levels is necessary to ensure the safety of taxi and booked hire services and achieve the objectives of TOPTA.

Subsection (1) prohibits a person from driving a motor vehicle being used to provide a taxi service or booked hire service while the person's ability to drive safely is impaired by fatigue. Subsection (2) requires a person in the chain of responsibility to 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 safely is impaired by fatigue.

New section 91C allows a regulation to impose other duties or requirements relating to driver fatigue on a person in the chain of responsibility, such as standards about working time spent driving a motor vehicle; requirements relating to monitoring, recording and reporting on these matters; use of particular equipment or technology to manage fatigue; and training of 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

New section 91D defines a *taxi service licence* as a licence 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.

New section 91E relates only to *original taxi service licences*, which are taxi service licences that were in force immediately before the commencement. The section clarifies that original taxi service licences continue in force and preserves the existing term and renewal provisions in TOPTA for these licences. An original taxi service licence is for a term of not more than 5 years stated in the licence; must, at the licence holder's request, be renewed for further successive terms of 5 years if its conditions are complied with; or may be renewed for a shorter term if requested by the applicant for renewal.

New section 91F relates to taxi service licences issued after the commencement. This section allows the chief executive to issue a taxi service licence for a taxi service area on a renewable or non-renewable basis. Before doing so, the chief executive must, by public notice, invite offers to purchase the taxi service licence. The chief executive is not obliged to accept any offer for a taxi service licence. The number of taxi service licences will be fixed for each taxi service area (see new section 91ZT). No new taxi service licences will be issued until at least 2018 to allow time for the personalised transport market to stabilise.

Section 91F also sets out the term of taxi service licences issued after the commencement. They will be for a term of not more than 5 years stated in the licence; and may only be renewed for 1 or more successive terms if the sum of the licence terms does not exceed 5 years and licence

conditions are complied with. If the licence is issued on a non-renewable basis, it must not be renewed.

Under section 91F, a taxi service licence issued after the commencement is not transferable. New section 91G allows the chief executive to amend a taxi service licence to change the taxi service area for the licence to another taxi service area in certain circumstances, for example if the licence holder successfully offers for a transfer to the other taxi service area following a calling of public offers. If the chief executive considers that the value of a taxi service licence increases as a result of a licence being transferred to another taxi service area under this provision, the chief executive may require the licence holder to pay the amount of the increase as a condition of the transfer.

The existing limitation in section 78 of TOPTA on the number of taxi service licences that can be held, leased or managed by a single operator in a taxi service area will be removed as this restriction is no longer necessary with greater choice in the booked hire market. However, should any operator engage in anti-competitive conduct in the provision of taxi or booked hire services, then the chief executive is able to suspend or cancel the licence in the public interest under new section 91T.

Division 2 Limousine licences

New section 91H defines a *limousine licence* as a licence issued by the chief executive under which the holder may provide booked hire services using the motor vehicle stated in the licence. The section clarifies that limousine service licences in force immediately before the commencement continue in force as limousine licences; and that the chief executive must not issue any new limousine licences. The concept of a limousine service as a distinct class of public passenger service will not be retained as pre-booked services in luxury motor vehicles will also be able to be provided using a booked hire vehicle. As a result of this change, limousine service licences will be renamed *limousine licences* under TOPTA.

The section also clarifies that a limousine service area stated in a limousine licence has no effect. It is intended that limousines, like booked hire vehicles, may be used in any area in Queensland. As such, the concept of limousine service areas will be removed from TOPTA in order to remove the restriction this places on limousine operations. There will continue to be no limit on the number of limousine licences a person may hold.

Section 91I sets out the term of limousine licences. This section preserves the current term and renewal provisions in TOPTA for limousine service licences but also provides for special purpose limousine licences to be phased out in the future given they are an annual licence that is substantially similar to the new booked hire service licence. Special purpose limousine licences authorise the provision of services for weddings, student events and tourist services only.

Under this section, a limousine licence is for a term of not more than 5 years stated in the licence. Special purpose limousine licences may be renewed for further successive terms of one year, and other limousine licences may be renewed for successive terms of 5 years, if licence conditions are complied with; or for a shorter term if requested by the applicant for renewal. However, a regulation may prescribe a date after which a special purpose limousine licence must not be renewed, to allow for these licences to be phased out in 3 years as proposed.

The holder of a limousine licence will continue to be exempt from the application of the *Liquor Act 1992* and limousines will continue to have access to certain priority lanes or areas, including bus lanes and transit lanes, under the *Transport Operations (Road Use Management–Road Rules) Regulation 2009*. It is not proposed to extend these benefits to booked hire vehicles.

Division 3 Booked hire service licences

New section 91J defines a *booked hire service licence* as a licence issued by the chief executive under which the holder may provide booked hire services using the motor vehicle stated in the licence. There is no limit on the number of booked hire service licences that may be issued.

New section 91K allows a regulation to be made to provide for issuing, or refusing to issue, booked hire service licences. It is intended that the regulation will require, as a minimum, that the vehicle proposed to be licensed has a current certificate of inspection under the *Transport Operations (Road Use Management–Vehicle Standards and Safety) Regulation 2010*; has the correct compulsory third party insurance class under the *Motor Accident Insurance Act 1994*; and is registered with the correct purpose of use under the *Transport Operations (Road Use Management–Vehicle Registration) Regulation 2010*. Further, the regulation will require that the person is a suitable person to hold a licence and has not committed an offence against relevant transport legislation or previously had a licence suspended or cancelled. The licence will not be issued until all relevant requirements are met.

New section 91L states that the term of a booked hire service licence is the period prescribed by regulation or, if no period is prescribed, the period of not more than 1 year stated in the licence. Booked hire service licences are not renewable, but the licence holder may apply for a new licence before the existing licence expires. Initially, it is intended to issue booked hire service licences for a term of one year.

New section 91M states that a booked hire service licence is not transferable.

Division 4 General provisions for licences

New section 91N states that division 4 applies to a taxi service licence, limousine licence and booked hire service licence.

New section 91O allows the chief executive to impose conditions on a licence and prohibits the licence holder and operator of the service provided under the licence from contravening a licence condition.

New section 91P allows a regulation to authorise the chief executive to amend licence conditions in the public interest; and to authorise amendment of licences in other circumstances such as to correct clerical errors or update contact details.

New section 91Q requires the operator of the service provided under the licence to give written notice to each driver of a vehicle being used to provide the service detailing the licensed vehicle, any licence conditions and the relevant taxi service area (for a taxi service licence). This section also requires the driver to produce this notice at the request of an authorised person.

New section 91R relates to the vehicle stated in the licence.

Subsection (1) requires a motor vehicle stated in a licence to comply with requirements for the vehicle prescribed by regulation. However, subsection (2) clarifies that this does not apply to a motor vehicle stated in a limousine licence immediately before the commencement. This is intended to exempt existing motor vehicles under limousine licences from vehicle type restrictions; but to impose vehicle type restrictions if a licence holder proposes to change the motor vehicle operating under a limousine licence in the future.

Subsection (3) allows a regulation to provide for a licence holder to apply to change the motor vehicle stated in the licence if it is proposed to permanently change the licensed vehicle to a different vehicle. This subsection also allows a regulation to authorise another vehicle (a *substitute vehicle*) to be used under the licence instead of the licensed vehicle in stated circumstances and on stated conditions, such as where the licensed vehicle cannot be used temporarily due to major mechanical failure.

New section 91S allows a regulation to provide for the transfer of original taxi service licences or limousine licences. These licences are currently able to be transferred under TOPTA and these arrangements will continue. However, taxi service licences issued after the commencement and booked hire service licences are not transferable (see new sections 91F and 91M).

Under this section, a regulation may also provide for taxi service licences, limousine service licences and booked hire service licences to be leased or surrendered.

New section 91T allows a regulation to provide for suspending and cancelling a licence, including for example where the licence holder contravenes relevant transport legislation or a condition of the licence; and to immediately suspend a licence if the licensed vehicle does not comply with relevant vehicle requirements or the chief executive considers immediate suspension is necessary in the public interest.

New section 91U requires the chief executive to keep a register of licences containing certain details about the licence, including the holder's name and contact details; licence number; licence period; licensed vehicle; taxi service area for a taxi service licence; and licence conditions. The chief executive may publish information contained in the register such as the licence number and the licensed vehicle, but must not publish information about an individual for privacy reasons. The purpose of publishing licence details is to assist parties involved in providing taxi and booked hire services, and customers, to identify licensed and unlicensed services.

Division 5 Booking entity authorisations

Subdivision 1 Booking entity authorisations generally

New section 91V defines *booking entity authorisation* as an authority under which a person may provide booking services for a booked hire service (see new section 71 for the definition of *booking service*); and also defines *authorised booking entity* for a booked hire service as a person who holds booking entity authorisation for the service. An authorised booking entity will not also need to hold operator accreditation under TOPTA as it is proposed to exclude

operators of taxi services and booked hire services from the requirement to hold operator accreditation by regulation under section 12 of TOPTA.

New section 91W allows a regulation to provide for granting, or refusing to grant, booking entity authorisation. For example, it is intended that the regulation will provide for criminal history checks on relevant parties related to the application for a booking entity authorisation, and allow an application to be refused if a person has been charged with, or convicted of, a disqualifying offence. A *disqualifying offence* is defined in schedule 3 of TOPTA to include, for example, an offence against TOPTA and certain provisions of the Criminal Code.

Under this section, an applicant for booking entity authorisation who is a foreign person must provide details of the applicant's proposed local nominee and the local nominee's signed consent to the appointment in the approved form. Local nominees are dealt with in subdivision 2.

New section 91X states that a booking entity authorisation is for a term of not more than 5 years stated in the authorising document. The authorisation may be renewed for 1 or more successive terms if the sum of the terms does not exceed 5 years and conditions of the authorisation are complied with. If the authorisation is issued on a non-renewable basis, it must not be renewed, although the holder can apply for another booking entity authorisation before the existing authorisation expires.

New section 91Y allows the chief executive to impose conditions on a booking entity authorisation and prohibits the authorised booking entity from contravening a condition.

New section 91Z allows a regulation to authorise the chief executive to amend conditions of a booking entity authorisation if the chief executive is satisfied this is necessary to improve booking services for booked hire services in the public interest; and to authorise amendments of booking entity authorisation in other circumstances such as to correct a clerical error or update contact details.

New section 91ZA allows a regulation to provide for suspending and cancelling a booking entity authorisation, including for example where the holder contravenes TOPTA or a condition of the authorisation; the holder is a foreign person and does not have a current local nominee; or the holder or certain other parties have been charged with, or convicted of, a disqualifying offence. This section also allows a regulation to authorise the chief executive to immediately suspend the authorisation on public interest grounds.

New section 91ZB states that a booking entity authorisation cannot be transferred or leased, but a regulation may provide for it to be surrendered.

Subdivision 2 Local nominee

New section 91ZC states that subdivision 2 applies if an authorised booking entity is a foreign person. A *foreign person* is to be defined in schedule 3 of TOPTA as an individual who usually lives in a foreign country, or a corporation incorporated in a foreign country.

New section 91ZD requires the authorised booking entity to have a local nominee. The local nominee must be an individual who usually lives in Australia or a corporation incorporated in

Australia. This section also requires the authorised booking entity to notify the chief executive if the entity appoints another person to be a local nominee, which must be accompanied by their written consent.

The requirement for a local nominee ensures that authorised booking entities based in foreign jurisdictions have a local presence. These provisions will assist TMR to undertake compliance and enforcement activities in relation to authorised booking entities that are foreign persons. Without a local nominee, it may be difficult, and in some cases cost-prohibitive, for TMR to undertake effective compliance and enforcement. For example, it may be difficult to require a foreign authorised booking entity to provide records for compliance purposes or evidence in court in relation to legal proceedings. It is not proposed to require the local nominee to hold assets in Australia as the ultimate penalty for failure to comply will be to suspend or cancel the booking entity authorisation, so that drivers will be prohibited from accepting bookings from an entity that is not an authorised booking entity (see new section 78(2)).

New section 91ZE states that if an authorised booking entity commits an offence against TOPTA, the entity's local nominee is taken to have also committed the offence. If the authorised booking entity is a corporation, the local nominee will be liable to the penalty that applies to a corporation if convicted of the offence. This section also clarifies that the local nominee may be proceeded against for, and convicted of, an offence regardless of whether the authorised booking entity has been proceeded against for, or convicted of, the offence. This section applies regardless of whether the local nominee has contributed to, or influenced, the commission of the offence.

New section 91ZF provides for notices, directions, reports and other documents to be given to an authorised booking entity by giving it to the entity's local nominee; and for notices and information given by the local nominee to be taken to have been given by the authorised booking entity.

Subdivision 3 General provisions

New section 91ZG requires an authorised booking entity to keep and provide to the chief executive information prescribed by regulation about booking services and booked hire services. The purpose of this provision is to assist the chief executive to comply with obligations under section 10 of TOPTA relating to the development, operating and funding of public passenger transport; or to monitor compliance with TOPTA in relation to booked hire services and booking services. Service-related information is critical to allow TMR to monitor service performance and changes in the personalised transport industry, and contributes to improving TMR's ability to undertake objective evidence-based analysis of industry performance and sustainability. Data is also critical for ensuring the safety of services, including for example ensuring drivers are not driving excessive hours with multiple authorised booking entities contributing to driver fatigue.

It is intended that service-related information prescribed by regulation may include, for example, details about the number of drivers and licensed vehicles affiliated with the authorised booking entity; number of bookings by period, locality and vehicle type; waiting times for bookings; and pick up and drop off locations. It is also intended to require this information on a regular basis, rather than making specific, ad hoc data requests.

Section 91ZG also provides that information given to the chief executive under this section is generally not admissible in a civil, criminal or administrative proceeding. The purpose of this provision is to give authorised booking entities confidence that TMR does not intend to use information obtained under this provision against them in a relevant proceeding. However, this provision does not affect the admissibility of information or evidence obtained under any other provision of TOPTA or other legislation, for example under the audit provisions contained in new part 5, division 2 of chapter 7 of TOPTA.

New section 91ZH requires the chief executive to keep a register of booking entity authorisations containing certain details about the authorisation, including the holder's name and contact details; authorisation number and period; local nominee if the authorised booking entity is a foreign person; and authorisation conditions. The chief executive may publish information contained in the register such as the authorised booking entity's name, business name (if any) and authorisation number, but must not publish any other information about an individual for privacy reasons. The purpose of publishing booking entity authorisation details is to assist parties involved in providing taxi and booked hire services, and customers, to identify authorised and unauthorised services. In particular, drivers will be able to check whether an entity arranging bookings for the driver holds a current booking entity authorisation, in order to ensure the driver does not commit an offence in accepting bookings from an unauthorised entity under new section 78(2).

Part 5 Enforcement

Division 1 Suspension of driver licences for driver offences

New section 91ZI defines a *relevant driver offence* for the purposes of division 1. This includes an offence against section 27(1), which is the requirement to hold driver authorisation; and sections 74(1), 74(2), 75(2), 76(1), 77(1), 78(2), 82(1) and 82(3), which are the driver offences in chapter 7, part 2 relating to the unauthorised provision of taxi and booked hire services.

New section 91ZJ allows the chief executive to suspend a person's driver licence for one month if the person has, within a 3 year period, committed 3 or more relevant driver offences. If more than one relevant driver offence is committed at the same time, it is considered to be the same offence for the purposes of this section.

The licence is suspended by written notice stating the matters prescribed in subsection (4), including the reasons for the suspension and rights to a review of the decision. New section 150C clarifies when a person *commits an offence* for this section. By applying this penalty to repeated offences, the intent is to provide the driver with an opportunity to correct his or her behaviour before facing more serious consequences.

Driver licence suspension is a non-financial sanction intended to deter drivers from non-compliance with TOPTA. Further, imposing this sanction on a driver will indirectly impact the business model of a third party (such as a booking entity) who might otherwise benefit from a driver's non-compliance. Whereas a third party can pay a fine on behalf of another person, non-financial sanctions directly target the drivers. Faced with the loss of their driver licence, drivers are unlikely to continue to provide unauthorised services, thereby disrupting the third party's business model.

New section 91ZK clarifies the effect of a driver licence suspension. If the person holds a driver licence, the person's licence (for a Queensland driver licence) or authority to drive on a Queensland road (for any other driver licence) is suspended. If the person does not hold a driver licence, the person is disqualified from holding or obtaining a driver licence. The person will not be able to apply for a special hardship order under the *Transport Operations (Road Use Management) Act 1995* which authorises the person to continue driving in certain circumstances. No show cause process will apply to the suspension and the decision to suspend will not be a reviewable decision under TOPTA.

New section 91ZL clarifies that a driver licence suspension under TOPTA does not terminate a vehicle insurance policy. However, a vehicle insurance policy does not include a CTP insurance policy under the *Motor Accident Insurance Act 1994*.

Division 2 Audits

New section 73 defines the term *relevant transport legislation* for the audit provisions in division 2 to include TOPTA, the *Transport Operations (Road Use Management) Act 1995* and the *Motor Accident Insurance Act 1994*.

New section 91ZM states the purpose of audits under division 2, which is to allow the chief executive or an authorised person to audit compliance with relevant transport legislation by a person in the chain of responsibility for a taxi service or a booked hire service, and to verify information given to the chief executive about the person's relevant activities. For example, TMR may wish to investigate whether an authorised booking entity has a system in place to ensure compliance with the requirement to only use authorised drivers and licensed vehicles; or whether a person in the chain of responsibility has appropriate systems in place for managing driver fatigue.

New section 91ZN allows the chief executive or an authorised person to give a person in the chain of responsibility an audit notice in relation to a proposed audit of the person's business activities relating to the provision of a taxi service or booked hire service or relevant motor vehicles. The audit notice may require the person to allow the audit to be carried out within the period stated in the notice and cooperate with every reasonable requirement of the chief executive or authorised person; and must state prescribed matters including the purpose and proposed duration of the audit.

New section 91ZO makes it an offence for a person to fail to comply with an audit notice without reasonable excuse.

New section 91ZP requires the chief executive to give an audit report to the person whose activities have been audited.

New section 91ZQ applies where an audit report identifies non-compliance with relevant transport legislation by the person whose activities were audited. It allows the chief executive or an authorised person to give the person a written direction to comply within a stated period of not less than 5 business days. However, if an individual is at risk of death or serious injury or illness due to the non-compliance, the chief executive may direct the person to immediately comply and take action specified in the notice to remedy the non-compliance. It is an offence for the person to contravene a direction without reasonable excuse. The purpose of this

provision is to give the person an opportunity to remedy the activities that are causing the non-compliance, to prevent any further contravention of relevant transport legislation.

Division 3 Other offences

New section 91ZR allows the chief executive to set maximum fares for taxi services and booked hire services by gazette notice. However, maximum fares for booked hire services can only apply for members of a personalised transport subsidy scheme; where the service is provided by using a type of vehicle, or for a class of persons, prescribed by regulation; or where mentioned in section 75 (that is, where a booked hire service may only be provided in a taxi or limousine in a particular taxi service area). The section also prohibits a person from charging more than the maximum fare; and clarifies that *charging a fare* includes deciding or otherwise controlling the amount of the fare, such as by administering an electronic system that determines the amount automatically using a computer program.

The intention is to only regulate maximum fares where it is necessary to protect consumers and prevent price gouging. For example, maximum fares will be retained for taxi services because customers are not usually in a position to compare rates and negotiate the fare when obtaining a taxi at a rank or hailing it off the street. Maximum fares for booked hire services prescribed by regulation may include, for example, fares for wheelchair accessible vehicles. Without this protection, people with disability may be expected to pay more for these specialised services.

New section 91ZS allows a regulation to prescribe a maximum payment surcharge for a fare for a taxi service or booked hire service; and defines *payment surcharge* as an amount charged in addition to the fare for processing payment of the fare or for paying the fare using one payment method over another, such as a credit card surcharge. The section also prohibits a person from charging more than the maximum payment surcharge for a taxi service or booked hire service if a maximum payment surcharge applies to the service; and clarifies that *charging a payment surcharge* includes deciding or otherwise controlling the amount of the surcharge, such as by using a device to process payment of the surcharge.

As a result of amendments to the *Competition and Consumer Act 2010* (Cth) (CCA) in 2016, a payment surcharge for a fare for a booked hire service must comply with the Reserve Bank of Australia's surcharging standard. However, this standard does not apply to services provided by taxis. To ensure appropriate consumer protections apply to services provided by taxis, the maximum payment surcharge is proposed to be capped at 5 per cent by regulation under section 91ZS for these services.

Part 6 General provisions

Division 1 Taxi service areas

New section 91ZT allows the chief executive to declare taxi service areas and fix the number of taxi service licences for a taxi service area by gazette notice. In fixing the number of taxi service licences, the chief executive must consider whether there are enough taxi service licences for the area to meet public demand. The effect of these provisions is to retain a cap on the number of taxi service licences that may be issued in each taxi service area.

New section 91ZU makes it an offence for a person to use a taxi to provide a public passenger service for a journey that starts in a taxi service area unless that area is the taxi service area stated in the taxi service licence for the taxi or a licence condition allows for this. The intention is to allow a taxi to pick up passengers only in the taxi service area stated in the taxi service licence for the taxi, in order to enforce market entry restrictions in each taxi service area. This will assist in the reliable supply of taxi and booked hire services for public use in each taxi service area. This offence does not apply to public passenger services provided under a contract with a government entity; these services are able to start outside the taxi service area for the taxi.

New section 91ZV clarifies that compensation is not payable in relation to the making, amendment or repeal of a declaration of a taxi service area, or the fixing or amendment of the number of taxi service licences fixed for a taxi service area, under section 91ZT. For example, no compensation is payable where taxi service areas are consolidated regardless of any consequential change to licence values.

Division 2 Taxi industry security levy and fund

New section 91ZW allows the chief executive to impose a taxi industry security levy for a financial year on holders of taxi service licences for prescribed taxi service areas. The purpose of this levy is to contribute to the costs of improving the security of taxi services, including secure taxi ranks in late night entertainment precincts to minimise incidents of alcohol-fuelled violence. This section continues the existing taxi industry security levy under TOPTA, and also clarifies that the chief executive can decide not to impose the levy for a particular financial year.

New section 91ZX continues the existing Taxi Industry Security Fund into which taxi industry security levies are paid.

Division 3 Other provisions

New section 91ZY allows a regulation to provide a scheme under which the State subsidises the provision of public passenger services provided to particular groups using taxis or booked hire vehicles. This scheme is currently called the Taxi Subsidy Scheme and is provided for in part 6, division 5 of the *Transport Operations (Passenger Transport) Regulation 2005*. It is proposed to continue this scheme for subsidising taxi services for eligible persons with disability, but to rename the scheme the Personalised Transport Subsidy Scheme to allow for the scheme to be extended to limousines and booked hire vehicles in the future if this is considered appropriate.

Clause 19 removes the words ‘or operate’ from section 100 relating to a direction to comply with standards to correct a minor drafting error.

Clause 20 amends section 120 relating to powers of authorised persons to enter places. The amendment allows authorised persons to enter a place of business of a person in the chain of responsibility for a taxi service or a booked hire service to whom an audit notice has been given under section 91ZN if the authorised person believes entry is necessary to carry out the audit.

Clause 21 omits section 124A. Section 124A allows an authorised person to require a limousine to be moved to a place where it may lawfully ply or stand for hire if it is plying or standing for

hire at an unauthorised place. As TOPTA will prohibit the provision of a public passenger service in a motor vehicle that plies or stands for hire at a public place and is not a taxi (see new section 74), section 124A should be removed.

Clause 22 omits section 145. Section 145 allows the chief executive to declare a vehicle to be a forward-control passenger vehicle or a luxury motor vehicle. This provision is no longer needed in TOPTA as a consequence of the removal of the definition of passenger car which relates to limousines and it is no longer intended to define luxury motor vehicles.

Clause 23 inserts new sections 150B and 150C to clarify the application of penalties for offences relating to taxi and booked hire services. Section 150B lists the offence provisions under TOPTA that are each counted for working out whether a person has committed a first or subsequent offence. Under section 150C, a person *commits an offence* for certain provisions of TOPTA if the person has been convicted of the offence or served with an infringement notice for the offence which has been dealt with under the *State Penalties Enforcement Act 1999*.

Clause 24 amends section 153B of TOPTA to include additional evidentiary provisions to support the new chapter 7. This amendment allows for a certificate signed by the chief executive stating certain matters to be evidence of that matter in a proceeding for an offence against TOPTA. For example, a certificate stating that at a particular time, a stated motor vehicle was or was not a taxi, limousine or booked hire vehicle is evidence of the matter.

Clause 25 amends section 154H to replace a reference to limousine service with a reference to booked hire service, as a consequence of the removal of the definition of limousine service from TOPTA.

Clause 26 amends section 155 to prescribe additional regulation-making powers to support the new chapter 7. The amendments clarify that the power to make regulations about the safety of public passenger services includes the use of security cameras in relevant vehicles and extend the existing regulation-making powers about fares, rights and obligations of passengers and drivers of public passenger vehicles and requirements for driver authorisation and booking entity authorisation.

Clause 27 amends section 155A relating to the *Taxi and Limousine Industry Assistance Scheme Regulation 2016* to preserve certain current definitions in TOPTA for the purposes of this legislation.

Clause 28 inserts a new chapter 13, part 18 containing transitional provisions for the *Transport and Other Legislation (Personalised Transport Reform) Amendment Act 2017* (the *amending Act*).

New section 208 contains definitions of *amending Act* and *previous* for part 18.

New section 209 clarifies that existing taxi service bailment agreements continues in force despite the repeal of chapter 4A of TOPTA.

New section 210 states that existing service contracts for the administration of taxi services under chapter 6, part 3 of TOPTA will end on the commencement; but this does not affect a right, liability or obligation under the service contract that relates to the Taxi Subsidy Scheme.

New section 211 clarifies that existing declared taxi service areas prior to commencement are taken to be declared under new section 91ZT.

New section 212 clarifies transitional record-keeping requirements on existing operators of limousine services.

New section 213 clarifies that taxi or limousine service licence suspensions in effect immediately before the commencement continue in effect despite the enactment of the amending Act.

New section 214 states that decisions related to taxi service administration contracts made before the commencement will no longer be reviewable under chapter 10 of TOPTA.

New section 215 states that certain decisions related to taxi service licences and limousine service licences made before the commencement continue to be reviewable under chapter 10 of TOPTA.

New section 216 clarifies that compensation is not payable by the State because of the amendment of TOPTA by the amending Act.

Clause 29 corrects a minor error in the heading of schedule 1A relating to driver disqualifying offences.

Clause 30 makes consequential amendments to schedule 2 relating to reviewable decisions under TOPTA. Decisions under new chapter 7 of TOPTA that will be reviewable include the requirement to pay an amount as a condition of transfer of the taxi service licence between areas; refusal to issue a booked hire service licence; imposing a condition on a taxi service licence or booked hire service licence; amendment of a taxi service licence, limousine service licence or booked hire service licence; suspension or cancellation of a taxi service licence, limousine licence or booked hire service licence (other than immediate suspension); refusal to grant booking entity authorisation; amendment of a booking entity authorisation; suspension or cancellation of a booking entity authorisation (other than immediate suspension); and giving a direction to comply with relevant transport legislation under audit provisions.

Clause 31 omits, amends and inserts definitions in schedule 3 to reflect the new regulatory framework for personalised transport services contained in this Bill.

Part 3 Amendment of the Transport Operations (Road Use Management) Act 1995

Clause 32 states that part 3 of the Bill amends the *Transport Operations (Road Use Management) Act 1995* (TORUM Act).

Clause 33 amends section 78 relating to the offence of driving a motor vehicle without a driver licence. The effect of this amendment is that a court must disqualify a person from holding or obtaining a Queensland driver licence for a further 1 to 6 months if the person is convicted of this offence while the person's driver licence was suspended under TOPTA.

Clause 34 amends section 79 relating to vehicle offences involving liquor or other drugs. A zero blood alcohol concentration (BAC) requirement currently applies to taxis and limousines under section 79. The amendments extend the zero BAC requirement to persons who drive, attempt to put in motion, or are in charge of, any other motor vehicle that is available to be used, is about to be used, or is being used to provide a public passenger service under TOPTA. A zero BAC requirement for booked hire vehicles was introduced in September 2016 under section 52A(3) of the *Transport Operations (Passenger Transport) Regulation 2005*; however this was only intended as an interim measure until amendments to the TORUM Act could be made. As a result of this amendment, the current provision in the PT Regulation will be removed.

The zero BAC requirement for public passenger services is intended to apply regardless of whether passengers are in the vehicle. For example, a driver of a taxi, limousine or booked hire vehicle must have a zero BAC while connected to a booking service, platform or app and awaiting a job, and while the driver is on the way to pick up a passenger.

Clause 35 amends section 87 relating to the issue of a restricted licence to a disqualified person. The effect of the amendment is that a driver licence suspension under TOPTA is not considered a suspension, cancellation or disqualification for determining whether to issue a disqualified person with a restricted licence if a person is convicted of an offence under section 79 or 80(5A).

Clause 36 amends section 129A to clarify the effect of suspension of a driver licence under TOPTA will be consistent with the current effect of a suspension under the *State Penalties Enforcement Act 1999*. The suspension has the same effect as if the licence was suspended under the TORUM Act. If the suspension ends before the licence would ordinarily expire, it does not extend the period the licence would have otherwise remained in force. If a person must hold a driver licence for a stated period, the stated period is extended by one month and the suspension does not break the continuous period for which the person must hold the licence. If the licence expires before the suspension ends, the person must not apply for or obtain a driver licence until the suspension ends. A person whose licence is suspended must not otherwise apply for or obtain a Queensland driver licence.

Part 4 Other amendments

Clause 37 states that schedule 1 of the Bill amends the Acts it mentions.

Schedule 1

Schedule 1 makes the following consequential amendments to other Acts:

- The definition of *limousine licensee* in section 14B(2) of the *Liquor Act 1992* will be amended to replace the reference to a 'limousine service licence' with a 'limousine licence' as a consequence of definitional changes in TOPTA.
- The definition of *public passenger vehicle* in section 26ZKB(7) of the *Tobacco and Other Smoking Products Act 1998* is amended to include a booked hire vehicle for the purposes of smoking offences relating to public transport waiting points.

- The definition of *busway service provider* in section 335A of the *Transport Infrastructure Act 1994* is amended to replace the term *limousine service* with *booked hire service*.
- The definition of *public passenger transport infrastructure* in the *Transport Planning and Coordination Act 1994* is amended to remove the reference to a limousine rank or limousine standing area.

©The State of Queensland 2017

DRAFT



Queensland

Transport and Other Legislation (Personalised Transport Reform) Amendment Regulation 2017

Subordinate Legislation 2017 No. ...

made under the

Motor Accident Insurance Act 1994

Transport Operations (Passenger Transport) Act 1994

Contents

		Page
Part 1	Preliminary	
1	Short title	4
2	Commencement	4
Part 2	Amendment of Motor Accident Insurance Regulation 2004	
3	Regulation amended	4
4	Replacement of pt 8, hdg (Transitional provision for the Motor Accident Insurance Amendment Regulation (No. 2) 2006)	4
5	Insertion of new pt 8, div 1, hdg	5
6	Insertion of new pt 8, div 2	5
	Division 2 Transitional provision for the Transport and Other Legislation (Personalised Transport Reform) Amendment Regulation 2017	
	36 Policy of insurance for class 26 motor vehicles	5
7	Amendment of sch 1 (Motor vehicle classes)	5
8	Amendment of sch 2 (Additional amounts)	6
9	Amendment of sch 3 (Levies)	6
10	Amendment of sch 4 (Dictionary)	6
Part 3	Amendment of Transport Operations (Passenger Transport) Regulation 2005	

Tabled Draft—9 March 2017

Transport and Other Legislation (Personalised Transport Reform) Amendment Regulation 2017

Contents

11	Regulation amended	7
12	Omission of pt 6, div 4 (Taxi security camera systems)	7
13	Insertion of new pt 7A, div 1, hdg	7
14	Replacement of s 117C (Booked hire service signs)	7
	117C Booked hire service signs	7
15	Insertion of new pt 7A, div 2	8
	Division 2 Booked hire service licences	
	117E Vehicle requirements for booked hire service licence	9
	117F Application for booked hire service licence	9
	117G Chief executive may require information or document	10
	117H Deciding application	10
	117I Issuing booked hire service licence	10
	117J Refusing booked hire service licence	11
	117K Amendment, suspension and cancellation of booked hire service licences	12
	117L Notice about amendment, suspension and cancellation of booked hire service licences	13
	117M Immediate suspension of booked hire service licence	14
	117N Further action after immediate suspension	15
	117O Return of booked hire service licence if amended, suspended or cancelled	16
	117P Other amendments of booked hire service licences .	16
16	Insertion of new pts 7B and 7C	17
	Part 7B Vehicle security camera systems	
	Division 1 Preliminary	
	117Q Definitions for part	17
	Division 2 Chief executive functions	
	117R Chief executive may approve specifications for vehicle security camera system	20
	117S Chief executive may approve vehicle security camera system	21
	117T Approval of signs	22
	Division 3 General obligations	
	117U Application of division	23
	117V Obligation on operator of service	23
	117W Vehicle not to be fitted with vehicle security camera system that has not been approved	23
	117X Operation of camera systems	24

	Division 4	Vehicles fitted with approved security camera systems	
	117Y	Application of division	24
	117Z	Properly fitted and fully operational approved security camera system	24
	117ZA	Obligation on person who drives a vehicle	25
	117ZB	Notice that approved security camera system not properly fitted or fully operational	25
	117ZC	Person must not tamper with an approved security camera system	26
	Division 5	Security recordings	
	117ZD	Use of security recordings from approved security camera system	27
	117ZE	Requirement to keep record of download of security recording	28
	117ZF	Security measures for protecting against unauthorised use of security recording	28
	117ZG	Disposal of copied security recordings	29
	Part 7C	Required training for particular booked hire services and taxi services	
	117ZH	Definitions for part	30
	117ZI	Notification of training and standards of training . . .	30
	117ZJ	Minimum standards of industry training	31
	117ZK	Authorised booking entity or operator must ensure driver completes required training	31
	117ZL	Person who drives a vehicle must complete required training	31
17		Amendment of sch 3 (Relevant taxi service areas for approved taxi security camera systems)	32
18		Amendment of sch 7 (Reviewable decisions)	32
19		Amendment of sch 9 (Fees and levy)	32
20		Amendment of sch 11 (Dictionary)	33

Tabled Draft—9 March 2017

Part 1 Preliminary

1 Short title

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

Note—

This draft regulation contains amendments that relate to the recommendations of the Transportation and Utilities Committee mentioned in section 155B of the *Transport Operations (Passenger Transport) Act 1994*.

Further regulation amendments will be required to fully implement the amendments proposed in the Transport and Other Legislation (Personalised Transport Reform) Bill 2017.

2 Commencement

This regulation commences on [To be advised].

Part 2 Amendment of Motor Accident Insurance Regulation 2004

3 Regulation amended

This part amends the *Motor Accident Insurance Regulation 2004*.

4 Replacement of pt 8, hdg (Transitional provision for the Motor Accident Insurance Amendment Regulation (No. 2) 2006)

Part 8, heading—

omit, insert—

Part 8 Transitional provisions

5 Insertion of new pt 8, div 1, hdg

Part 8, before section 35—

insert—

**Division 1 Transitional provision for
the Motor Accident
Insurance Amendment
Regulation (No. 2) 2006**

6 Insertion of new pt 8, div 2

Part 8, after section 35—

insert—

**Division 2 Transitional provision for
the Transport and Other
Legislation (Personalised
Transport Reform)
Amendment Regulation
2017**

36 Policy of insurance for class 26 motor vehicles

[To be advised].

7 Amendment of sch 1 (Motor vehicle classes)

(1) Schedule 1, entry for vehicle class 4, ‘or 6’—

omit, insert—

, 6 or 26

(2) Schedule 1—

insert—

Tabled Draft—9 March 2017

26 booked hire vehicles (cars and station wagons) and limousines (cars and station wagons)

8 Amendment of sch 2 (Additional amounts)

Schedule 2—

insert—

26 [To be advised]

9 Amendment of sch 3 (Levies)

Schedule 3—

insert—

26 [To be advised] [TBA] [TBA]

10 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

booked hire vehicle see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

limousine see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

taxi see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

Part 3 **Amendment of Transport
Operations (Passenger
Transport) Regulation 2005**

11 **Regulation amended**

This part amends the *Transport Operations (Passenger Transport) Regulation 2005*.

12 **Omission of pt 6, div 4 (Taxi security camera systems)**

Part 6, division 4—
omit.

13 **Insertion of new pt 7A, div 1, hdg**

Part 7A, before section 117A—
insert—

Division 1 General provisions

14 **Replacement of s 117C (Booked hire service signs)**

Section 117C—
omit, insert—

117C Booked hire service signs

- (1) This section does not apply to a motor vehicle that is a taxi or a limousine.
- (2) A person must not drive a motor vehicle to provide a booked hire service unless a booked hire service identification sign that complies with subsection (3) is—
 - (a) displayed—

Tabled Draft—9 March 2017

- (i) on the bottom left-hand side of the front and rear windscreens of the vehicle; and
- (ii) in a place that does not obstruct the view of the road or traffic from the driver's seat; and
- (b) clearly visible from at least 20m in front of and behind the vehicle.
- (3) A booked hire service identification sign must—
 - (a) be a square of at least 146mm by 146mm; and
 - (b) be retroreflective; and
 - (c) comply with any other requirements for a sign approved by the chief executive.

Example for paragraph (c)—

requirements for the border of a sign

- (4) In this section—

booked hire service identification sign, for a booked hire service, is a sign that an authorised booking entity for the service has advised the chief executive in writing is the entity's booked hire service identification sign.

left-hand side, of a windscreen of a motor vehicle, means the left-hand side of the windscreen when viewed from behind the vehicle.

15 Insertion of new pt 7A, div 2

Part 7A, after section 117D—

insert—

Division 2

**Booked hire service
licences**

117E Vehicle requirements for booked hire service licence

- (1) The vehicle requirements for a motor vehicle stated in a booked hire service licence are that the vehicle must—
 - (a) be a passenger vehicle; and
 - (b) have no more than 12 seating positions, including the driver's position; and
 - (c) be registered in Queensland under the *Transport Operations (Road Use Management) Act 1995*; and
 - (d) if the owner of the vehicle is required to possess a current certificate of inspection for the vehicle—be the subject of a current certificate of inspection; and
 - (e) be the subject of a CTP insurance policy for a class of vehicle that includes booked hire vehicles or another class of vehicle that attracts a higher premium.
- (2) In this section—

CTP insurance policy see the *Motor Accident Insurance Act 1994*, section 4.

117F Application for booked hire service licence

- (1) A person may apply to the chief executive for a booked hire service licence.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) include the details of the motor vehicle to be stated in the licence; and
 - (c) be accompanied by the fee stated in schedule 9.

117G Chief executive may require information or document

- (1) The chief executive may, by written notice given to the applicant, require the applicant to give the chief executive within the reasonable period of at least 14 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.
- (2) The applicant is taken to have withdrawn the application if the applicant does not comply with a requirement under subsection (1) within the stated period.

117H Deciding application

After receiving the application for the booked hire service licence, the chief executive must consider it and decide—

- (a) to grant the application; or
- (b) to refuse, under section 117J, to issue the licence.

117I Issuing booked hire service licence

- (1) If the chief executive decides to grant the application, the chief executive must issue a booked hire service licence to the applicant.
- (2) A booked hire service licence must state the following—
 - (a) the licence holder's name;
 - (b) details of the vehicle for which the licence is in force;
 - (c) the day the licence takes effect and expires;
 - (d) any conditions of the licence.

117J Refusing booked hire service licence

- (1) The chief executive may refuse to issue a booked hire service licence to a person if—
 - (a) the motor vehicle for which the licence is sought does not comply with the vehicle requirements under section 117E; or
 - (b) a taxi service licence, limousine licence or booked hire service licence granted to the person or a related person was cancelled or suspended within the previous year; or
 - (c) the person or a related person has, within the previous year, committed an offence against a provision of relevant transport legislation relating to—
 - (i) providing a taxi service or a booked hire service; or
 - (ii) using a taxi, limousine or booked hire vehicle to provide a taxi service or booked hire service; or

Note—

See section 150C of the Act for when a person commits an offence against a provision of relevant transport legislation.

- (d) the chief executive is satisfied it is necessary in the public interest to do so.
- (2) For subsection (1)(a), the vehicle requirement mentioned in section 117E(1)(d) applies as if the motor vehicle for which the booked hire service licence is sought is a booked hire vehicle.
- (3) This section is prescribed as a section to which section 150C of the Act applies.
- (4) If the chief executive decides to refuse to issue a booked hire service licence under this section, the chief executive must give the person a regulation notice about the decision.

Tabled Draft—9 March 2017

Note—

Schedule 2 of the Act provides a refusal to issue a booked hire service licence is a reviewable decision.

117K Amendment, suspension and cancellation of booked hire service licences

- (1) The chief executive may amend the conditions of a booked hire service licence if satisfied the amendment will better meet the needs of users of booked hire services.
- (2) The chief executive may suspend or cancel a person's booked hire service licence if satisfied—
 - (a) the vehicle stated in the licence does not comply with the vehicle requirements under section 117E; or
 - (b) the person or a related person commits an offence against a provision of relevant transport legislation relating to—
 - (i) providing a taxi service or a booked hire service; or
 - (ii) using a taxi, limousine or booked hire vehicle to provide a taxi service or booked hire service; or

Note—

See section 150C of the Act for when a person commits an offence against a provision of relevant transport legislation.

- (c) the person contravenes, or encourages or permits someone else to contravene, a condition of—
 - (i) the licence; or
 - (ii) a taxi service licence, limousine licence or another booked hire service licence the person holds; or

- (d) a taxi service licence, limousine licence or another booked hire service licence held by the person is suspended or cancelled; or
- (e) it is necessary in the public interest.

Note—

Schedule 2 of the Act provides an amendment of a booked hire service licence, or suspension or cancellation of a booked hire service licence, is a reviewable decision.

- (3) This section is prescribed as a section to which section 150C of the Act applies.

117L Notice about amendment, suspension and cancellation of booked hire service licences

- (1) This section applies if the chief executive considers a ground exists under section 117K to amend the conditions of, or to suspend or cancel, a person's booked hire service licence.
- (2) Before taking the action mentioned in subsection (1) (the *proposed action*), the chief executive must give the person a written notice—
 - (a) stating the proposed action; and
 - (b) stating the grounds for the proposed action; and
 - (c) outlining the facts and circumstances forming the basis for the grounds; and
 - (d) if the proposed action is an amendment of the conditions of the booked hire service licence—stating the proposed amendment; and
 - (e) if the proposed action is suspension of the booked hire service licence—stating the proposed suspension period; and

Tabled Draft—9 March 2017

- (f) inviting the person to show, within a stated time of at least 28 days, why the proposed action should not be taken.
- (3) If, after considering all written representations made within the stated time, the chief executive is satisfied a ground exists to take the proposed action, the chief executive may, by giving a regulation notice to the person—
 - (a) if the proposed action was to amend the conditions of the booked hire service licence—
 - (i) amend the licence in the way stated in the regulation notice; or
 - (ii) amend the licence in another way; or
 - (b) if the proposed action was to suspend the booked hire service licence—
 - (i) suspend the licence for no longer than the period stated in the regulation notice; or
 - (ii) amend the conditions of the licence; or
 - (c) if the proposed action was to cancel the booked hire service licence—
 - (i) cancel the licence; or
 - (ii) suspend the licence for a period; or
 - (iii) amend the conditions of the licence.

117M Immediate suspension of booked hire service licence

- (1) The chief executive may immediately suspend a person's booked hire service licence, by giving a regulation notice to the person, if the chief executive considers—

- (a) the vehicle stated in the licence does not comply with the vehicle requirements under section 117E; or
- (b) it is necessary in the public interest.

Example of the public interest—

The chief executive considers the person is behaving in a way that is damaging to the reputation of public passenger transport.

- (2) The chief executive may, under subsection (1), suspend the person's booked hire service licence until the earlier of the following—
 - (a) the chief executive gives the person a regulation notice under section 117L(3);
 - (b) the end of 56 days after the regulation notice under subsection (1) is given to the person.
- (3) This section applies despite section 117L.

117N Further action after immediate suspension

- (1) This section applies if—
 - (a) under section 117M, the chief executive immediately suspends a person's booked hire service licence; and
 - (b) the chief executive also proposes, under section 117K, to amend the conditions of, or to suspend or cancel, the booked hire service licence.
- (2) The regulation notice under section 117M(1) must also state the information mentioned in section 117L(2) in relation to the action the chief executive proposes to take.
- (3) Section 117L(3) applies to the proposed action as if the regulation notice given under section 117M(1) were a notice given under section 117L(2).

117O Return of booked hire service licence if amended, suspended or cancelled

- (1) This section applies if—
 - (a) a person is given a regulation notice—
 - (i) amending the conditions of the person’s booked hire service licence; or
 - (ii) suspending, including immediately suspending, the person’s booked hire service licence; or
 - (iii) cancelling the person’s booked hire service licence; and
 - (b) the regulation notice requires the person to return the booked hire service licence.
- (2) As soon as practicable after the person is given the regulation notice (but within 14 days), the person must return the booked hire service licence to the chief executive, unless the person has a reasonable excuse.
 Maximum penalty—10 penalty units.
- (3) Even if the person does not return the booked hire service licence, the action stated in the regulation notice has effect from the date stated in the notice.

117P Other amendments of booked hire service licences

- (1) The chief executive may amend a person’s booked hire service licence—
 - (a) for a formal or clerical reason; or
 - (b) in another way that does not adversely affect the person’s interests; or
 - (c) if the person asks.
- (2) The chief executive amends the licence by giving written notice to the person.

16 Insertion of new pts 7B and 7C

After part 7A—

insert—

**Part 7B Vehicle security
camera systems**

Division 1 Preliminary

117Q Definitions for part

In this part—

approved security camera system means a vehicle security camera system approved by the chief executive under section 117S.

approved security camera system sign means a sign approved under section 117T.

authorised purpose, for a security recording, means—

- (a) examining a complaint about the vehicle, or an event that happened in or about the vehicle, carried out by—
 - (i) the operator of a booked hire service or taxi service provided using the vehicle or, if the operator is a corporation, an executive officer of the corporation; or
 - (ii) an employee of the operator of the service, acting under the direct and immediate supervision of the operator or the executive officer; or

Examples of matters that may be the subject of a complaint—

- fare evasion
- lost property

Tabled Draft—9 March 2017

- disorderly conduct
 - offensive behaviour
 - theft of property
 - physical assaults not causing injury
- (b) prosecuting, or issuing an infringement notice for, an offence committed in or about the vehicle; or
- (c) another purpose relating to a police officer performing the officer's duties; or
- (d) another purpose relating to a public service officer employed in the department performing the officer's duties relating to the administration of vehicle security camera systems fitted in vehicles; or
- (e) a manufacturer or supplier of the approved security camera system carrying out work to maintain, or address a failure in, the approved security camera system; or
- (f) another purpose required or permitted by law.

front and rear camera system means a device or system that—

- (a) records images, or images and audible sounds, in front of or behind a vehicle but not of any person inside the vehicle; and
- (b) stores, or transmits and stores, the images, or images and audible sounds, recorded by the device or system.

fully operational, for an approved security camera system, means—

- (a) the visual indicator on the camera system, designed to show whether the camera system is operating, shows the camera system is operating; and

- (b) the view from a lens of the camera system is not altered or obstructed in a way that would adversely affect the use of an image recording for an authorised purpose; and

Examples of ways the view from a lens of a camera system may be altered or obstructed—

- an object covering, or partially covering, a lens
- a mark or scratch on a lens

- (c) if relevant for the camera system—the reception of audible sound by the camera system is not altered or obstructed in a way that would adversely affect the use of a sound recording for an authorised purpose.

Example of ways reception may be altered or obstructed—

- an object covers, or partially covers, a microphone of an approved security camera system

image recording includes—

- (a) any electronic information from which a recorded image is capable of being generated or a copy of the information; and
- (b) a reproduction of a recorded image or a copy of the reproduction.

properly fitted, for an approved security camera system, means the camera system is fitted and aligned in accordance with the specifications approved under section 117R for the camera system.

relevant area means the geographic area that corresponds with a taxi service area mentioned in schedule 3.

relevant place, for an approved security camera system sign in or on a vehicle, means—

Tabled Draft—9 March 2017

- (a) on all doors of the vehicle, in a place on each door approved by the chief executive; and
- (b) at least 1 other conspicuous place inside the vehicle that allows passengers of the vehicle to readily see the sign.

security recording means an image recording or sound recording made by an approved security camera system fitted in a booked hire vehicle, taxi or limousine.

sound recording includes—

- (a) any electronic information from which a recorded audible sound is capable of being generated or a copy of the information; and
- (b) a reproduction of a recorded audible sound or a copy of the reproduction.

vehicle security camera system means a device or system, other than a front and rear camera system, that—

- (a) records images, or images and audible sounds, of persons in or about a vehicle; and
- (b) stores, or transmits and stores, images, or images and audible sounds, recorded by the device or system.

Division 2 Chief executive functions

117R Chief executive may approve specifications for vehicle security camera system

- (1) The chief executive may, by notice published on the department's website, approve specifications for a vehicle security camera system.
- (2) Without limiting subsection (1), the notice must

include the following specifications for the vehicle security camera system—

- (a) whether the camera system may be turned off by a person;
- (b) when the camera system must operate, including a period (if any) when the vehicle in which it is fitted is not providing a booked hire service or taxi service;
- (c) that the camera system must ensure that a security recording made by the camera system is deleted, destroyed or overwritten within a period stated in the notice;
- (d) that the camera system must make a record of when a security recording made by the camera system is downloaded.

117S Chief executive may approve vehicle security camera system

- (1) The chief executive may, by notice published on the department’s website—
 - (a) approve a vehicle security camera system that complies with specifications approved under section 117R for use in vehicles; or
 - (b) cancel an approval for a vehicle security camera system.
- (2) An approval under subsection (1)(a) may be subject to conditions.
- (3) Without limiting subsection (2), a condition may relate to the following matters—
 - (a) the technical and functional specifications of the vehicle security camera system;
 - (b) the requirements for support services to be provided by the manufacturer or supplier of the vehicle security camera system;

Tabled Draft—9 March 2017

- (c) the maintenance of the vehicle security camera system;
 - (d) security controls for the vehicle security camera system.
- (4) The chief executive may, under subsection (1)(b), cancel an approval only if—
- (a) the chief executive reasonably believes—
 - (i) the vehicle security camera system no longer complies with specifications approved under section 117R; or
 - (ii) the vehicle security camera system no longer complies with the approval; or
 - (iii) the manufacturer or supplier of the vehicle security camera system has breached a condition of the approval; or
 - (iv) the manufacturer or supplier no longer intends to fully support the vehicle security camera system; or
 - (b) the chief executive receives a request from the manufacturer or supplier to cancel the approval.
- (5) A cancellation of an approval for a vehicle security camera system takes effect 6 months after notice of the cancellation is published under subsection (1)(b).

117T Approval of signs

- (1) The chief executive may approve a sign for display in or on a vehicle fitted with an approved security camera system that states a security camera is fitted and operating in the vehicle.
- (2) An approval under subsection (1) must be notified by publication on the department's

website.

Division 3 General obligations

117U Application of division

This division applies to any of the following—

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

117V Obligation on operator of service

- (1) This section applies if a vehicle is, or is to be, used to provide a booked hire service or taxi service for a journey that starts in a relevant area and—
 - (a) the vehicle is authorised to provide a taxi service; or
 - (b) a passenger pays the fare for the journey—
 - (i) by cash at any time; or
 - (ii) in person by electronic funds transfer, credit card transaction or another way during the journey.
- (2) The operator of a booked hire service or taxi service that is provided using the vehicle must ensure the vehicle is fitted with an approved security camera system.

Maximum penalty—40 penalty units.

117W Vehicle not to be fitted with vehicle security camera system that has not been approved

A person must not fit, or cause to be fitted, a vehicle security camera system in a vehicle unless

Tabled Draft—9 March 2017

it is an approved security camera system.

Maximum penalty—40 penalty units.

117X Operation of camera systems

A person must not drive a vehicle to provide a booked hire service or taxi service while a vehicle security camera system, other than the following, is operating—

- (a) an approved security camera system;
- (b) a device operated by a passenger.

Maximum penalty—40 penalty units.

Division 4 Vehicles fitted with approved security camera systems

117Y Application of division

This division applies if a booked hire vehicle, limousine or taxi is fitted with an approved security camera system, whether or not the camera system was fitted because of a requirement under section 117V.

117Z Properly fitted and fully operational approved security camera system

When an operator of a booked hire service or taxi service makes the vehicle available to a person to drive to provide the service, the operator must ensure—

- (a) the approved security camera system is—
 - (i) properly fitted; and

- (ii) fully operational; and
- (b) an approved security camera system sign is displayed at each relevant place in or on the vehicle.

Maximum penalty—40 penalty units.

117ZA Obligation on person who drives a vehicle

A person must not drive the vehicle unless—

- (a) the approved security camera system is fully operational; and
- (b) an approved security camera system sign is displayed at each relevant place in or on the vehicle.

Maximum penalty—40 penalty units.

117ZB Notice that approved security camera system not properly fitted or fully operational

- (1) This section applies if an operator of a booked hire service or taxi service provided using the vehicle—
 - (a) gives the chief executive written notice that the approved security camera system is not, or will not be, properly fitted or fully operational during a stated period because it is undergoing maintenance or repair; and
 - (b) ensures a copy of the notice is kept in the vehicle during the notice period.
- (2) The operator does not commit an offence against section 117V(2) or 117Z for providing the service using the vehicle, or making the vehicle available to a person to drive during the notice period—
 - (a) if the notice states the approved security camera system is not, or will not be,

Tabled Draft—9 March 2017

properly fitted during the notice period—without a properly fitted camera system; or

- (b) if the notice states that the camera system is not, or will not be, fully operational during the notice period—without a fully operational approved security camera system.
- (3) Also, if the notice states that the approved security camera system is not, or will not be, fully operational during the notice period, a person who drives the vehicle does not commit an offence against section 117ZA by driving the vehicle without a fully operational approved security camera system during the notice period.
- (4) In this section—
- notice period*** means the period—
- (a) starting on the later of the following days—
 - (i) the day the notice is given to the chief executive;
 - (ii) the day stated in the notice as the first day of the period; and
 - (b) ending on the day stated in the notice as the last day of the period that must be not more than 4 days after the day the period starts.

117ZC Person must not tamper with an approved security camera system

- (1) A person must not tamper with the approved security camera system fitted in the vehicle unless the person has lawful authority or excuse.
Maximum penalty—40 penalty units.
- (2) A person does not commit an offence against this section if—

- (a) the person carries out work to maintain, address a failure in or remove the approved security camera system; and
 - (b) the work is carried out for a manufacturer or supplier of the approved security camera system.
- (3) In this section—
tamper includes attempt to tamper.

Division 5 Security recordings

117ZD Use of security recordings from approved security camera system

- (1) A person must not sell a security recording.
Maximum penalty—80 penalty units.
- (2) A person must not download a security recording made in a vehicle when the vehicle was not being used to provide a booked hire service or taxi service unless the person has lawful authority.
Maximum penalty—80 penalty units.
- (3) A person must only download, otherwise disclose or use a security recording made in a vehicle when the vehicle was being used to provide a booked hire service or taxi service for an authorised purpose.
Maximum penalty—80 penalty units.
- (4) For subsections (2) and (3), a vehicle is used to provide a booked hire service or taxi service when the vehicle—
 - (a) is about to be used for the service; or
 - (b) is being used for the service; or
 - (c) has just been used for the service.

Tabled Draft—9 March 2017

117ZE Requirement to keep record of download of security recording

- (1) A person who downloads a security recording must keep a record of the following—
 - (a) the VIN of the vehicle in which the security recording was made;
 - (b) the date, time and location of the download;
 - (c) the person’s name;
 - (d) the reason for the download;
 - (e) the name and contact details of—
 - (i) the person asking for the downloaded security recording; and
 - (ii) the person (if any) to whom the downloaded security recording is to be given;
 - (f) the date, time and filename of the security recording.

Maximum penalty—80 penalty units.

- (2) A person who makes a record under subsection (1) must give a copy of the record to the chief executive within 1 business day after downloading the security recording.

Maximum penalty—80 penalty units.

- (3) In this section—

VIN has the meaning given by the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8.

117ZF Security measures for protecting against unauthorised use of security recording

- (1) A relevant person must take all reasonable security measures to ensure a security recording is

protected against being—

- (a) lost; or
- (b) downloaded, otherwise disclosed or used other than under section 117ZD(2) and (3).

Maximum penalty—80 penalty units.

- (2) A relevant person does not commit an offence against this section if, because of a specification under section 117R(2)(c), the security recording is deleted, destroyed or overwritten.

- (3) In this section—

relevant person, for a security recording for a vehicle, means—

- (a) the operator of a booked hire service or taxi service provided using the vehicle; or
- (b) a person who provides a booking service for a booked hire service using the vehicle; or
- (c) if an operator or person mentioned in paragraphs (a) or (b) is a corporation—an executive officer of the corporation; or
- (d) when the vehicle is being used to provide a booked hire service or taxi service—the person driving the vehicle; or
- (e) a person who receives, downloads, discloses or otherwise uses the security recording for an authorised purpose.

117ZG Disposal of copied security recordings

- (1) This section applies if a person has made or received a copy of all or part of a security recording.
- (2) The person must delete or otherwise destroy the copy of the security recording on a day not less than 60 days, but not more than 90 days, after the

Tabled Draft—9 March 2017

security recording is made or received, unless the copy is required for an enforcement purpose.

Maximum penalty—80 penalty units.

(3) In this section—

enforcement purpose means prosecuting, or issuing an infringement notice for, an offence.

Part 7C Required training for particular booked hire services and taxi services

117ZH Definitions for part

In this part—

industry training, for a kind of booked hire service or taxi service, means the training stated in a notice under section 117ZI(b) for the kind of service.

required training, for a kind of booked hire service or taxi service, means the training stated in a notice under section 117ZI for the kind of service.

117ZI Notification of training and standards of training

The chief executive may publish a notice on the department’s website stating for a booked hire service or taxi service of a particular kind—

- (a) the names of training courses that a driver must complete for the kind of service; or
- (b) the training, and the minimum standards for the training, that a driver must complete for

the kind of service and that may be provided
by or for—

- (i) an operator of a booked hire service or taxi service; or
- (ii) an authorised booking entity.

117ZJ Minimum standards of industry training

- (1) This section applies if any of the following persons provide industry training—
 - (a) an authorised booking entity;
 - (b) an operator of a booked hire service or taxi service;
 - (c) another person for the authorised booking entity or operator.
- (2) The person must ensure the industry training complies with any minimum standards stated for the training in a notice under section 117ZI(b).

Maximum penalty—40 penalty units.

117ZK Authorised booking entity or operator must ensure driver completes required training

An authorised booking entity or operator of a booked hire service or taxi service of a particular kind must ensure a person who drives a motor vehicle to provide the service has completed the required training for the kind of service.

Maximum penalty—40 penalty units.

117ZL Person who drives a vehicle must complete required training

A person must not drive a vehicle to provide a booked hire service or taxi service of a particular kind unless the person has completed the required

Tabled Draft—9 March 2017

training for the kind of service.

Maximum penalty—40 penalty units.

17 Amendment of sch 3 (Relevant taxi service areas for approved taxi security camera systems)

Schedule 3, heading—

omit, insert—

Schedule 3 Relevant areas for approved security camera systems

section 117Q, definition *relevant area*

18 Amendment of sch 7 (Reviewable decisions)

(1) Schedule 7, entries for sections 87(1)(a) and 87(1)(b)—

omit.

(2) Schedule 7—

insert—

117S(1)(a) refusal to approve a vehicle security camera system

117S(1)(b) cancellation of approval of vehicle security camera system

19 Amendment of sch 9 (Fees and levy)

Schedule 9—

insert—

4A Booked hire service licence

237.26

4B Booking entity authorisation for each year of the authorisation—

(a) 1 to 5 vehicles	250.00
(b) 6 to 20 vehicles	700.00
(c) 21 to 50 vehicles	2000.00
(d) more than 50 vehicles	5000.00

20 Amendment of sch 11 (Dictionary)

(1) Schedule 11, definitions *approved taxi security camera system*, *approved taxi security camera system sign*, *audio recording*, *authorised purpose*, *booked hire service*, *booked hire vehicle*, *fully operational*, *image recording*, *properly fitted*, *relevant place*, *relevant taxi service area*, *security recording*, *taxi* and *taxi security camera system*—

omit.

(2) Schedule 11—

insert—

approved security camera system, for part 7B, see section 117Q.

approved security camera system sign, for part 7B, see section 117Q.

authorised purpose—

(a) for part 6, division 5, see section 94; or

(b) for part 7B, see section 117Q.

current certificate of inspection means a current certificate of inspection under the *Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2010*.

front and rear camera system, for part 7B, see section 117Q.

Tabled Draft—9 March 2017

fully operational, for an approved security camera system, for part 7B, see section 117Q.

image recording, for part 7B, see section 117Q.

industry training, for a kind of booked hire service or taxi service, for part 7C, see section 117ZH.

passenger vehicle means a motor vehicle constructed primarily for the carriage of persons and having at least 4 wheels.

properly fitted, for an approved security camera system, for part 7B, see section 117Q.

related body corporate see the *Corporations Act 2001* (Cwlth), section 50.

related person, for a person in relation to another person, means—

- (a) for an individual and a corporation—the person is a majority shareholder, director or secretary of the corporation or a related body corporate of the corporation, or has an interest of 50% or more in it; or
- (b) for corporations—they are related bodies corporate.

relevant area, for part 7B, see section 117Q.

relevant place, for an approved security camera system in or on a vehicle, for part 7B, see section 117Q.

required training, for a kind of booked hire service or taxi service, for part 7C, see section 117ZH.

security recording, for part 7B, see section 117Q.

sound recording, for part 7B, see section 117Q.

vehicle security camera system, for part 7B, see section 117Q.

ENDNOTES

- 1 Made by the Governor in Council on [Made by Governor Date].
- 2 Notified on the Queensland legislation website on [Notification Date].
- 3 The administering agency is the Department of Transport and Main Roads.

Tabled Draft—9 March 2017