

# Personalised Transport Ombudsman Bill 2019

## Explanatory Notes

### FOR

## Amendments To Be Moved During Consideration In Detail By The Honourable Mark Bailey MP

### Title of the Bill

Personalised Transport Ombudsman Bill 2019

### Objectives of the Amendments

Industry and customer confidence that the personalised transport ombudsman operates in a framework that appropriately balances independence and accountability, is fundamental to its ability to perform its functions effectively.

After consideration of the Transport and Public Works Committee analysis and recommendations for the Bill and submissions from industry, the following issues require amendment to better reflect expectations:

- Ensuring the Minister is not able to require the personalised transport ombudsman to review a matter that has previously been considered by the personalised transport ombudsman;
- Reducing the period a person must be absent from the personalised transport industry before they are eligible to be appointed as the personalised transport ombudsman; and
- Prescribing some specific matters that must be reported in the annual report.

In addition, it was intended the personalised transport ombudsman provisions would commence on assent. However, in recognition that potential changes to the legislation could arise through the Committee process, recruitment for the personalised transport ombudsman is not planned to start until after the Bill is passed. It has been identified that once the provisions commence, technically a person will be able to lodge complaints under clause 31 – even though there will not be a personalised transport ombudsman to respond to those complaints.

## **Achievement of the Objectives**

In order to provide increased assurance to industry that the personalised transport ombudsman will operate within a framework that appropriately balances independence and accountability, the amendments made during consideration in detail will:

- Clarify that the personalised transport ombudsman is not required to review a matter referred to it by the Minister under section 21, where the matter has been the subject of a personalised transport complaint previously made to the ombudsman;
- Reduce the period a person must be absent from the personalised transport industry before they are eligible to be appointed as the personalised transport ombudsman, from five years to three years; and
- Outline some specific matters, including systemic issues and complaints statistics and how complaints were dealt with, that must be included in the annual report.

In addition, provisions of the Bill that relate to the personalised transport ombudsman will start on proclamation to allow commencement to align with the appointment process.

## **Alternative Ways of Achieving Policy Objectives**

The policy objectives can only be achieved through legislative amendment.

## **Estimated Cost for Government Implementation**

There is not expected to be any additional cost to government in implementing the proposed amendments.

## **Consistency with Fundamental Legislative Principles**

The amendments are consistent with fundamental legislative principles.

## **Consultation**

The amendments arise from matters raised during the Transport and Public Works Committee process which involved representations from the personalised transport industry. No further consultation was undertaken.

## NOTES ON PROVISIONS

*Clause 1* amends clause 2 of the Bill to ensure that, other than part 7, divisions 4 and 5 and part 7, division 6, subdivisions 1 and 2, the provisions of the Bill, including the provisions relating to the personalised transport ombudsman, will commence on a day fixed by proclamation.

*Clause 2* amends clause 12 by replacing references to '5 years' with '3 years' in subsections (1)(g), (h), (j) and (k). This amendment reduces the period a person with specified links to the personalised transport industry is disqualified from becoming or continuing as the personalised transport ombudsman.

*Clause 3* amends clause 21 of the Bill by inserting subsection (3). Subsection (3) clarifies the personalised transport ombudsman is not required to comply with the Minister's request to review a matter under clause 21, if the ombudsman reasonably believes the matter is, or has been, the subject of a personalised transport complaint made to the personalised transport ombudsman, and the ombudsman gives the Minister notice of the belief.

*Clause 4* inserts new section 95A which outlines matters that must be included in annual report information relating to the personalised transport office. Annual reporting for the personalised transport ombudsman's office is generally regulated through the *Financial Accountability Act 2009*.

In addition to the matters required under that Act, section 95A ensures information about systemic issues and details about the number of complaints received and how they were dealt with will also be included. Section 95A is not intended to be exhaustive and additional matters may also be included in the annual report as is considered appropriate.