

Transport Operations (Passenger Transport) Amendment Regulation 2022

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Mark Bailey MP, Minister for Transport and Main Roads, provide this human rights certificate with respect to the *Transport Operations (Passenger Transport) Amendment Regulation 2022* made under the *Transport Operations (Passenger Transport) Act 1994*.

In my opinion, the *Transport Operations (Passenger Transport) Amendment Regulation 2022*, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The primary objective of the *Transport Operations (Passenger Transport) Act 1994* (the Act) is to achieve the best possible public passenger transport at a reasonable cost to the community and government while keeping government regulation to a minimum. The objective of the *Transport Operations (Passenger Transport) Regulation 2018* (the Regulation) is to support this objective as effectively as possible.

Peak demand arrangements for substitute taxis

Part 8, division 4 of the Regulation provides for substitute vehicle authorities for taxi service licences. An authorised booking entity may apply for a substitute vehicle authority for a motor vehicle to be used under a taxi service licence in particular circumstances, such as where an existing taxi cannot be used due to accident or repair. These vehicles are called 'substitute taxis'.

In certain circumstances, substitute taxis may also be approved to supplement the taxi fleet during times of peak customer demand. Sections 284 (Continued use of substitute vehicles during peak patronage periods until 30 September 2019) and 308 (Application of s 284) of the Regulation allow substitute taxis stated in a peak demand exemption notice to be used to provide taxi services and booked hire services until 30 September 2022.

The *Transport Operations (Passenger Transport) Amendment Regulation 2022* (the Amendment Regulation) will amend section 284 to extend the current arrangements until 30 September 2024. This will allow the Department of Transport and Main Roads (TMR) to finalise a review of taxi service licensing, while allowing peak demand arrangements for substitute taxis to remain in place and ensure that substitute vehicles can continue to be used to provide taxi services and booked hire services during peak patronage periods.

An amendment will also clarify that section 180(1) of the Regulation (Requirements for use of a vehicle) does not apply in relation to peak demand arrangements. Section 180 of the Regulation provides that a substitute taxi can be used to provide personalised transport services in accordance with section 177 (Allowed use of vehicle under taxi service licence). Section 177 does not currently provide for the use of a substitute taxi under a peak demand exemption notice. A clarifying amendment to section 180 will ensure vehicles used during peak demand arrangements are exempt from complying with this requirement.

Local conveyance committees

Local conveyance committees were first established in 1945 and were responsible for all aspects of a school bus service, including designing the bus route and stops, selecting, contracting, and paying the operator (from funding made available by the Department of Education), setting rules to manage student behaviour on the bus, and providing a local service in areas where departmental staff were not available for daily administration.

Section 273 of the Regulation deals with local conveyance committees for school service contracts to provide school bus services. Under section 273(1), the chief executive may refuse to award a school service contract unless parents of students eligible for the School Transport Assistance Scheme who will use the service, have established a local conveyance committee, and the committee is operating in accordance with relevant guidelines.

The chief executive no longer refuses to award a school service contract if a conveyance committee is not in place. TMR now assumes responsibility for relevant contract requirements and the role of conveyance committees has evolved, diminishing the need for them to exist for the purposes of service contracts. More recently, the role of conveyance committees has evolved to:

- assisting school principals and bus operators in maintaining discipline of school students while travelling on school buses, and
- liaising with operators on matters such as bus stops and timetables.

Clarifying that local conveyance committees are not mandatory for the purposes of school service contracts will be achieved by removing section 273. This provides the flexibility for TMR to manage local conveyance committees through existing policy and individual school service contracts negotiated between TMR and the service operator.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

Local conveyance committee

The amendment does not negatively impact or engage a person's human rights because it does not remove the ability for a local conveyance committee to be established. Conveyance committees may still be formed to assist school principals and bus operators in maintaining discipline of school students on school buses and liaising with operators on matters such as bus stops and timetables.

Removal of the requirement for a conveyance committee to be established before a service contract is awarded is beneficial as it removes regulatory and administrative burden and reflects current contractual arrangements.

Peak demand arrangements for substitute taxis

Section 24 of the *Human Rights Act 2019* provides that every person has the right to own property alone or in association with others and that a person must not be arbitrarily deprived of the person's property. The proposed amendment does not limit the property rights of personalised transport service providers. Rather, peak demand arrangements have been established to ensure continuity of service and to provide appropriate transport options. If these arrangements were not extended a personalised transport service provider may be limited in the use of their vehicles to provide services.

Conclusion

I consider that the *Transport Operations (Passenger Transport) Amendment Regulation 2022* is compatible with the *Human Rights Act 2019* because it does not limit a human right.

Honourable Mark Bailey MP
Minister for Transport and Main Roads

© The State of Queensland 2022