



Queensland

# Transport Operations (Passenger Transport) (Ticketing) and Other Legislation Amendment Regulation 2020

## Subordinate Legislation 2020 No. 26

made under the

*State Penalties Enforcement Act 1999*

*Transport Operations (Passenger Transport) Act 1994*

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title .....	3
2	Commencement .....	3
<b>Part 2</b>	<b>Amendment of State Penalties Enforcement Regulation 2014</b>	
3	Regulation amended .....	3
4	Amendment of sch 1 (Infringement notice offences and fines for nominated laws) .....	3
<b>Part 3</b>	<b>Amendment of Transport Operations (Passenger Transport) Regulation 2018</b>	
5	Regulation amended .....	4
6	Insertion of new pt 9A .....	4
	Part 9A Matters relating to charging and payment of fares	
	Division 1 Preliminary	
	218A Matters relating to charging and payment of fares—Act, ss 143AB and 155 .....	4
	218B Definitions for part .....	5
	Division 2 Fare evasion	
	218C Fare evasion .....	6
	218D When a person using a token evades payment of a fare in	

Contents

---

	relation to an approved vehicle . . . . .	6
218E	When a person otherwise evades payment of a fare . . . . .	8
218F	Circumstances in which person using particular facility to record start or end of journey does not commit fare evasion . . . . .	9
218G	Circumstances in which person given particular direction does not commit fare evasion . . . . .	9
218H	Entitlement to refund in particular circumstances . . . . .	10
Division 3	Powers relating to production and seizure . . . . .	
218I	Power to require production of tickets or tokens . . . . .	11
218J	Power to seize particular tickets or tokens . . . . .	13
218K	Power to require evidence of concession entitlement . . . . .	14
218L	Power to require evidence to verify identity in particular circumstances . . . . .	15
Division 4	Matters relating to charging of fares . . . . .	
218M	Chief executive may charge amount as default fare in particular circumstances . . . . .	16
7	Amendment of s 252 (Creating disturbance or nuisance) . . . . .	16
8	Insertion of new s 262A . . . . .	17
	262A Relevant entity—Act, s 148BB . . . . .	17
9	Amendment of s 268 (Powers) . . . . .	17
10	Amendment of s 268B (Powers) . . . . .	18
11	Amendment of sch 9 (Dictionary) . . . . .	20

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Transport Operations (Passenger Transport) (Ticketing) and Other Legislation Amendment Regulation 2020*.

### 2 Commencement

This regulation commences on 9 March 2020.

## Part 2 Amendment of State Penalties Enforcement Regulation 2014

### 3 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2014*.

### 4 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

- (1) Schedule 1, entry for *Transport Operations (Passenger Transport) Act 1994*, entries for sections 143AC, 143ADA(4) and 143ADB(4)—

*omit.*

- (2) Schedule 1, entry for *Transport Operations (Passenger Transport) Regulation 2018*—

*insert—*

s 218C(1)	for a contravention involving a booked hire vehicle, limousine or taxi	4
	for any other contravention	2



- (2) This part also provides, for section 155 of the Act, for matters relating to fares charged for the use of particular public passenger services.

## **218B Definitions for part**

In this part—

***approved vehicle*** means a public passenger vehicle for which the chief executive has approved the use of a token to pay a fare in relation to the use or hire of the vehicle.

***tap off***, a token, means cause the token to be electronically read or scanned by a token reader on finishing a journey to—

- (a) enable the payment of the fare for the journey to be processed; or
- (b) record the end of the journey.

***tap on***, a token, means cause the token to be electronically read or scanned by a token reader on starting a journey to—

- (a) enable the payment of the fare for the journey to be processed; or
- (b) record the start of the journey.

***terms or conditions***, for travel on, or use of a ticket or token on, a public passenger vehicle, means the terms or conditions for travel on, or use of the ticket or token on, the vehicle set by the chief executive or the operator of the public passenger service provided using the vehicle.

***token*** means an app, card, ticket or other thing that can be electronically read or scanned by a token reader on starting or finishing a journey to—

- (a) enable the payment of the fare for the journey to be processed; or

(b) record the start or end of the journey.

*token reader* means an instrument that can be used to electronically read or scan a token on starting or finishing a journey to obtain information from the token to—

(a) enable the payment of the fare for the journey to be processed; or

(b) record the start or end of the journey.

## **Division 2      Fare evasion**

### **218C Fare evasion**

(1) A person must not evade payment of the fare for the person's use or hire of a public passenger vehicle.

Maximum penalty—40 penalty units.

(2) This section is prescribed as a fare evasion provision for the following provisions of the Act—

(a) section 143AG(1)(c);

(b) section 143AHA(4), definition *relevant provision*, paragraph (c);

(c) section 154(3).

### **218D When a person using a token evades payment of a fare in relation to an approved vehicle**

(1) This section sets out, for section 218C(1), the circumstances in which a person using a token evades payment of a fare in relation to the use or hire of an approved vehicle.

(2) If a person travels or attempts to travel on an

approved vehicle using a token for the journey, the person evades payment of a fare in relation to the vehicle if the person does not, without a reasonable excuse, tap on the token for the journey—

- (a) for a journey that starts at a station with fare gates—on or before entering an area of the station that is inside the fare gates; or
  - (b) otherwise—on or before starting the journey.
- (3) However, subsection (2)(a) does not apply in relation to a person who is in an area of a station that is inside the fare gates because the person has exited from an approved vehicle into the area.
- (4) Subsection (5) applies if—
- (a) a person has travelled on an approved vehicle; and
  - (b) the person tapped on a token for the journey.
- (5) The person evades payment of a fare in relation to the approved vehicle if the person does not, without a reasonable excuse, tap off the token for the journey—
- (a) for an approved vehicle that has a token reader—on exiting the vehicle; or
  - (b) otherwise—on or before entering an area that is outside the fare gates, or beyond the last token reader, at the station at which the person exited the vehicle.
- (6) If a person is travelling on an approved vehicle using a token for the journey, the person evades payment of a fare in relation to the vehicle if the person, without a reasonable excuse—
- (a) taps off the token for the journey before finishing the journey on the vehicle; or

- (b) otherwise causes the payment of the fare for the journey to be processed, or the end of the journey to be recorded, before finishing the journey on the vehicle.

### **218E When a person otherwise evades payment of a fare**

- (1) This section sets out, for section 218C(1), other circumstances in which a person evades payment of a fare in relation to the use or hire of a public passenger vehicle.
- (2) A person evades payment of a fare in relation to a public passenger vehicle if the person, without a reasonable excuse—
  - (a) travels or attempts to travel on the vehicle on a concession fare without being entitled to the concession fare; or
  - (b) travels or attempts to travel on the vehicle using a ticket or token that—
    - (i) has been altered or defaced in a material way; or
    - (ii) has been cancelled; or
    - (iii) is counterfeit; or
    - (iv) has expired; or
  - (c) remains on the vehicle after the distance, place or time covered by the fare paid for the journey has been reached; or
  - (d) travels or attempts to travel on the vehicle in a higher class than the class shown on the person's ticket or token; or
  - (e) travels or attempts to travel on the vehicle using a ticket or token for the journey that—
    - (i) belongs to, was issued to, or is for use for a journey by, another person; and

- (ii) is not transferable under the terms or conditions for use of the ticket or token on the vehicle.
- (3) However, subsection (2)(d) does not apply to a person in relation to a public passenger vehicle if the operator of the public passenger service provided using the vehicle permits the person to travel in the higher class.
- (4) If a person otherwise travels or attempts to travel on a public passenger vehicle, the person evades payment of a fare in relation to the vehicle if the person does not, without a reasonable excuse, pay the fare for the journey.

### **218F Circumstances in which person using particular facility to record start or end of journey does not commit fare evasion**

- (1) This section applies if—
  - (a) a person using a token for a journey on an approved vehicle has not been charged with, or served an infringement notice for, an offence against section 218C(1) for the journey; and
  - (b) after the person has travelled, the person causes the start or end of the journey to be recorded using a facility provided by the chief executive, other than a token reader.
- (2) The person does not commit an offence against section 218C(1) in the circumstances mentioned in section 218D(2) or (5) in relation to the journey.

### **218G Circumstances in which person given particular direction does not commit fare evasion**

- (1) This section applies if—

- (a) an authorised person gives a person a direction under section 143AHC or 143AHD of the Act; and
  - (b) the direction is about the person tapping on or tapping off a token for a journey on an approved vehicle.
- (2) If the person complies with the direction, the person does not commit an offence against section 218C(1) in relation to the journey on the approved vehicle.

### **218H Entitlement to refund in particular circumstances**

- (1) This section applies if—
- (a) a person is—
    - (i) convicted of an offence against section 218C(1) for a journey; or
    - (ii) served with an infringement notice for an offence against section 218C(1) for a journey that has been dealt with under the *State Penalties Enforcement Act 1999*; and
  - (b) the offence is in relation to evading the payment of the fare for the journey in the circumstances mentioned in section 218D(5); and
  - (c) a passenger account, or the token used for the journey, has been charged a default fare for the journey that is more than the fare that would have been charged if the person had complied with section 218D(5).
- (2) The person is entitled to a refund of the difference between the fares.
- (3) In this section—

---

*dealt with*, for an infringement notice for an offence against section 218C(1) served on a person, means one of the following has happened under the *State Penalties Enforcement Act 1999*—

- (a) the person has paid the fine for the infringement notice in full;
- (b) the person has elected to have the matter of the offence dealt with by a Magistrates Court and the matter has been finally decided against the person;
- (c) the person has applied for approval to pay the fine for the infringement notice by instalments and the application has been approved;
- (d) an order has been made against the person for the offence under section 38 of that Act.

*default fare* means an amount the chief executive may charge under section 218M(1).

*passenger account* see section 143C(5) of the Act.

## **Division 3            Powers relating to                                  production and seizure**

### **218I Power to require production of tickets or tokens**

- (1) This section applies in relation to a public passenger vehicle if a person travelling on the vehicle is required, under the terms or conditions for travel on the vehicle, to either—
  - (a) have a ticket for the journey; or
  - (b) tap on a token for the journey.

- (2) The driver or an authorised person may require a person who is travelling, or attempting to travel, on the public passenger vehicle to produce to the driver or authorised person the person's ticket or token for the journey.
- (3) If the driver or an authorised person reasonably suspects that a person has just travelled on the public passenger vehicle, the driver or authorised person may require the person to produce to the driver or authorised person the person's ticket or token for the journey.
- (4) A person must comply with a requirement under subsection (2) or (3), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (5) A person complies with a requirement under subsection (2) or (3) to produce the person's ticket or token for the journey, if, and only if, the person does everything reasonably necessary to enable the driver or authorised person—
  - (a) to view the ticket or token; and
  - (b) for a token—to use a revenue protection device to electronically read or scan the token to determine whether the person is contravening, or has just contravened, section 218C(1).

*Examples of a thing that may be reasonably necessary—*

- produce a ticket or token for the journey
- operate an electronic device on which a token is stored in order to display the token
- refresh an electronic device displaying or storing a token
- hold an electronic device displaying a token away from glare
- display a ticket or token in a way that ensures it is legible

- (6) If a person produces a token under subsection (2) or (3) to the driver or an authorised person, the driver or authorised person may use a revenue protection device to electronically read or scan the token to determine whether the person is contravening, or has just contravened, section 218C(1).
- (7) In this section—
- revenue protection device* means an instrument that can be used to electronically read or scan a token to obtain information from the token to determine whether a person is contravening, or has just contravened, section 218C(1).

### **218J Power to seize particular tickets or tokens**

- (1) This section applies if—
- (a) in accordance with a requirement made under section 218I(2) or (3) in relation to a public passenger vehicle, a person produces to the driver or an authorised person a physical ticket or a physical token; and
- (b) the ticket or token is, or purports to be, issued by the chief executive, or the operator of the public passenger service provided using the vehicle, for the primary purpose of—
- (i) enabling the payment of a fare for a journey to be processed; or
- (ii) recording the start or end of a journey; or
- (iii) providing evidence of the payment of a fare for a journey.
- (2) The driver or authorised person may require the person to give the ticket or token to the driver or authorised person if—

- (a) the driver or authorised person reasonably suspects the ticket or token—
    - (i) has been altered or defaced in a material way; or
    - (ii) has been cancelled; or
    - (iii) is counterfeit; or
    - (iv) has expired; or
  - (b) both of the following apply—
    - (i) the driver or authorised person reasonably suspects the ticket or token belongs to, was issued to, or is for use for a journey by, another person;
    - (ii) the ticket or token is not transferable under the terms or conditions for use of the ticket or token on the public passenger vehicle.
- (3) The person must comply with a requirement under subsection (2), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

### **218K Power to require evidence of concession entitlement**

- (1) The driver or an authorised person may require a person who is travelling, or attempting to travel, on a public passenger vehicle on a concession fare to produce to the driver or authorised person evidence of the person's entitlement to the concession fare.
- (2) If the driver or an authorised person reasonably suspects that a person has just travelled on a public passenger vehicle on a concession fare, the driver or authorised person may require the person to produce to the driver or authorised

person evidence of the person's entitlement to the concession fare.

- (3) A person must comply with a requirement under subsection (1) or (2) unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

### **218L Power to require evidence to verify identity in particular circumstances**

- (1) This section applies if—
- (a) in accordance with a requirement made under section 218K(1) or (2) in relation to a public passenger vehicle, a person produces to the driver or an authorised person a document as evidence of the person's entitlement to a concession fare; and
  - (b) the document does not contain a photograph of the person; and
  - (c) the person is 15 years or more.
- (2) The driver or authorised person may require the person to produce to the driver or authorised person evidence to verify that the person stated in the document is the person.
- (3) The person must comply with a requirement under subsection (2) unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

## **Division 4            Matters relating to                                  charging of fares**

### **218M Chief executive may charge amount as default fare in particular circumstances**

- (1) The chief executive may charge an amount, of not more than the maximum fare, as a default fare in relation to the use or hire of a public passenger vehicle providing a relevant service that applies if a person using a token for the journey does not tap on or tap off the token for the journey.
- (2) The chief executive must publish the amount on the department's website.
- (3) Without limiting subsection (1), the chief executive may charge a different amount for different public passenger vehicles, relevant services or classes of persons.
- (4) In this section—

*maximum fare* means the highest fare published on the department's website for the use or hire of a public passenger vehicle providing a relevant service.

*relevant service* means—

- (a) a relevant public passenger service under section 153B(3) of the Act; or
- (b) a public passenger service provided by, or on behalf of, Brisbane City Council if the service is funded, in whole or in part, under an agreement between the department and Brisbane City Council.

## **7 Amendment of s 252 (Creating disturbance or nuisance)**

Section 252(2), 'paragraph (c)'—

*omit, insert—*

paragraph (b)

## 8 Insertion of new s 262A

After section 262—

*insert—*

### **262A Relevant entity—Act, s 148BB**

For section 148BB(3) of the Act, definition *relevant entity*, paragraph (c), the following entities are prescribed—

- (a) an entity contracted by the Commonwealth to provide the program known as Status Resolution Support Services;
- (b) Australian Red Cross Society ABN 50 169 561 394, trading as Australian Red Cross Society - Queensland Division.

## 9 Amendment of s 268 (Powers)

- (1) Section 268(1)(a)(ii) and (iii)—

*omit.*

- (2) Section 268(1)(a)(iv) to (ix)—

*renumber* as section 268(1)(a)(ii) to (vii).

- (3) Section 268(1)(b)—

*omit, insert—*

- (b) the following provisions of this regulation—

- (i) section 218I;
- (ii) section 218J;
- (iii) section 218K;
- (iv) section 218L;
- (v) section 255.

- (4) Section 268(2)(a)(i) to (iii)—

*omit.*

- (5) Section 268(2)(a)(iv) and (v)—  
*renumber* as section 268(2)(a)(i) and (ii).
- (6) Section 268(2)(b), before subparagraph (i)—  
*insert*—
- (ia) section 218C(1);
  - (ib) section 218I(4);
  - (ic) section 218J(3);
  - (id) section 218K(3);
  - (ie) section 218L(3);
- (7) Section 268(2)(b)(ia) to (ix)—  
*renumber* as section 268(2)(b)(i) to (xiv).
- (8) Section 268(3)(a)—  
*omit*.
- (9) Section 268(3)—  
*insert*—
- (ba) section 218C(1) of this regulation;
- Note*—
- Section 218C(2) prescribes section 218C as a fare evasion provision for section 143AHA(4) of the Act, definition *relevant provision*, paragraph (c).
- (10) Section 268(3)(c), note, ‘paragraph (c)’—  
*omit, insert*—
- paragraph (b)
- (11) Section 268(3)(b) and (ba)—  
*renumber* as section 268(3)(a) and (b).

## 10 Amendment of s 268B (Powers)

- (1) Section 268B(1), from ‘under the following’—  
*omit, insert*—

under—

- (a) the following provisions of the Act—
  - (i) section 127;
  - (ii) section 143AG;
  - (iii) section 143AH;
  - (iv) section 143AHA(1);
  - (v) section 143AHB(1);
  - (vi) section 143AHC;
  - (vii) section 143AHD; and
- (b) the following provisions of this regulation—
  - (i) section 218I;
  - (ii) section 218J;
  - (iii) section 218K;
  - (iv) section 218L.

- (2) Section 268B(2)(a)(i) to (iii)—

*omit.*

- (3) Section 268B(2)(a)(iv) and (v)—

*renumber* as section 268B(2)(a)(i) and (ii).

- (4) Section 268B(2)(b), before subparagraph (i)—

*insert—*

- (ia) section 218C(1);
- (ib) section 218I(4);
- (ic) section 218J(3);
- (id) section 218K(3);
- (ie) section 218L(3);

- (5) Section 268B(2)(b)(ia) to (vi)—

*renumber* as section 268B(2)(b)(i) to (xi).

(6) Section 268B(3)(a) to (c) and note—

*omit, insert—*

- (a) section 143AE(1) of the Act;
- (b) section 218C(1) of this regulation;

*Note—*

Section 218C(2) prescribes section 218C as a fare evasion provision for section 143AHA(4) of the Act, definition *relevant provision*, paragraph (c).

- (c) section 252(1) of this regulation.

*Note—*

Section 252(2) prescribes section 252 as a relevant provision for section 143AHA(4) of the Act, definition *relevant provision*, paragraph (b).

## 11 Amendment of sch 9 (Dictionary)

Schedule 9—

*insert—*

***approved vehicle***, for part 9A, see section 218B.

***tap off***, for part 9A, see section 218B.

***tap on***, for part 9A, see section 218B.

***terms or conditions***, for part 9A, see section 218B.

***token***, for part 9A, see section 218B.

***token reader***, for part 9A, see section 218B.

#### ENDNOTES

- 1 Made by the Governor in Council on 5 March 2020.
- 2 Notified on the Queensland legislation website on 6 March 2020.
- 3 The administering agency is the Department of Transport and Main Roads.

© State of Queensland 2020