

Queensland



*Competition Policy Reform (Queensland) Act 1996*

**COMPETITION POLICY  
REFORM (QUEENSLAND)  
PUBLIC PASSENGER  
SERVICE AUTHORISATIONS  
REGULATION 2000**

**Reprinted as in force on 27 July 2000  
(regulation not amended up to this date)**

**Reprint No. 1**

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# Information about this reprint

This regulation is reprinted as at 27 July 2000.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have been made to reorder definitions consistent with current drafting practice (s 30).

**See endnotes for information about when provisions commenced.**

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(QUEENSLAND) PUBLIC PASSENGER  
SERVICE AUTHORISATIONS REGULATION  
2000**

[reprinted as in force on 27 July 2000]

**PART 1—PRELIMINARY**

**Short title**

1. This regulation may be cited as the *Competition Policy Reform (Queensland) Public Passenger Service Authorisations Regulation 2000*.

**PART 2—INTERPRETATION**

**Definitions**

2. In this regulation—

“**competition legislation**” means the Trade Practices Act, section 51(1)(b)<sup>1</sup> or the Competition Code, section 51.<sup>2</sup>

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<sup>1</sup> Trade Practices Act, section 51 (Exceptions)

<sup>2</sup> The Competition Code, section 51 states that in deciding whether a person has contravened the Code, Part IV, certain things must be disregarded. Section 51(1) of the Code provides that the following must be disregarded—

‘(a)...

(b) anything done in a State, if the thing is specified in, and specifically authorised by:

(i) an Act passed by the Parliament of that State; or

(ii) regulations made under such an Act.’

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**“fare”**, in relation to a public passenger service, means—

- (a) the price payable for use of the service; or
- (b) the provisions of, or arrangements for, a discount, allowance, rebate or credit applying in relation to the price payable for use of the service.

**“fare provision”** see section 4.

**“identified provision”** see section 5.

**“management entity”** means—

- (a) the State; or
- (b) a State influenced entity.

**“management entity provision”** see section 6.

**“Passenger Transport Act”** means the *Transport Operations (Passenger Transport) Act 1994*.

**“Passenger Transport Act chief executive”** means the chief executive under the Passenger Transport Act.

**“Passenger Transport Act Minister”** means the Minister under the Passenger Transport Act.

**“service entity”** means an entity that provides or proposes to provide 1 or more public passenger services in Queensland as an operator.

**“service entity provision”** see section 7.

**“service equipment”**, for a public passenger service, means any of the following used in operating the service—

- (a) facilities, including ticketing systems, network monitoring systems, communications equipment and timing systems;
- (b) infrastructure, including tunnels, stations, parking facilities and passenger interchanges;
- (c) goods or services related to something mentioned in paragraph (a) or (b).

**“State influenced entity”** see section 8.

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### **Supporting definitions from Passenger Transport Act**

**3.(1)** Although this regulation is not made under the Passenger Transport Act, it is concerned essentially with public passenger services under that Act.

**(2)** Accordingly, in this regulation, the following words have the meanings given to them under the Passenger Transport Act—

- ferry service
- limousine service
- operator
- operator accreditation
- public passenger service
- railway manager
- taxi service.

### **Meaning of “fare provision”**

**4.(1)** For this regulation, a “**fare provision**” is a provision about a fare (the “**relevant fare**”) applying for a public passenger service of 1 or more service entities.

**(2)** However, a provision is a “**fare provision**” only if—

- (a) the provision has the purpose, or has or is likely to have the effect, of—
  - (i) fixing, controlling or maintaining the relevant fare; or
  - (ii) providing for the fixing, controlling or maintaining of the relevant fare; and
- (b) the provision is negotiated and agreed to in the context of a contract, arrangement or understanding for coordinating or integrating public passenger services; and
- (c) at any particular time the provision is given effect to, the relevant fare is consistent with any model fare structure arrangement that—

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- (i) has been approved by the Passenger Transport Act chief executive; and
- (ii) has been published in the gazette; and
- (iii) is still in force.

**Meaning of “identified provision”**

**5.** For this regulation, a provision is an **“identified provision”** if it is a provision about—

- (a) the coordination or integration of public passenger services of 2 or more service entities; or
- (b) the route to be used or not to be used by a service entity in providing a public passenger service; or
- (c) an area in which a service entity will or will not provide a public passenger service; or
- (d) where a service entity will or will not pick up or set down passengers in providing a public passenger service; or
- (e) the times a service entity will or will not provide a public passenger service; or
- (f) the persons or classes of persons to whom a service entity will or will not provide a public passenger service; or
- (g) a characteristic of a vehicle, vessel or item of rolling stock a service entity will or will not use to provide a public passenger service; or
- (h) a service entity not providing a public passenger service that competes, or if it were provided, would compete, with a public passenger service of another service entity; or
- (i) a service entity providing a public passenger service for or on behalf of another person, including another service entity, whether as principal or agent; or
- (j) a service entity issuing a ticket for a public passenger service, if all or part of the service is to be provided by 1 or more other service

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entities; or

- (k) the name, sign, decal or logo under which a service entity is to provide a public passenger service; or
- (l) the terms on which a service entity provides a public passenger service; or
- (m) the promotion of a public passenger service provided by 1 or more of the service entities.

### **Meaning of “management entity provision”**

**6.(1)** For this regulation, a “**management entity provision**” is a provision about the supply by a management entity of a service for a public passenger service of 1 or more service entities.

**(2)** However, a provision is a “**management entity provision**” only if the provision is—

- (a) about the persons or classes of persons to whom the service will be supplied; or
- (b) to the effect that the management entity is to supply the service on condition that the service entity or entities are to acquire service equipment, including from a person who is not a party to the contract, arrangement or understanding containing the provision.

### **Meaning of “service entity provision”**

**7.(1)** For this regulation, a “**service entity provision**” is a provision about the acquisition, use or supply of service equipment for a public passenger service of 1 or more service entities.

**(2)** However, a provision is a “**service entity provision**” only if the provision is—

- (a) about the persons or classes of persons from whom the service equipment will be acquired or to whom the service equipment will be supplied; or
- (b) to the effect that a service entity or management entity is to supply

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the service equipment on condition that another person, including another service entity or management entity, is to acquire other service equipment, including from a person who is not a party to the contract, arrangement or understanding containing the provision.

### **Meaning of “State influenced entity”**

**8.(1)** For this regulation, a “**State influenced entity**” is an entity whose functions include coordinating or facilitating the integration of public passenger services.

**(2)** However, an entity is a “**State influenced entity**” only if at least 1 of the following applies—

- (a) the State has power to appoint a person to, or remove a person from, the board or managing body of the entity;
- (b) the State has power to vote, or control a vote, at a meeting of the board or managing body of the entity;
- (c) the State has power to vote, or control a vote, at a meeting of the members of the entity.

### **References to public passenger services**

**9.(1)** A reference in this regulation to a public passenger service does not include a reference to a public passenger service that is a taxi service or limousine service.

**(2)** A reference in this regulation to the public passenger service of a service entity is a reference to a public passenger service the service entity provides or proposes to provide in Queensland as an operator.

### **Extended meanings of certain expressions**

**10.** For this regulation—

- (a) reference to making a contract or arrangement containing a particular provision includes reference to the following—

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- (i) offering to make a contract or arrangement containing the particular provision;
- (ii) refusing to make a contract or arrangement unless the contract or arrangement contains the particular provision; and
- (b) reference to arriving at an understanding containing a particular provision includes reference to the following—
  - (i) offering to arrive at an understanding containing the particular provision;
  - (ii) refusing to arrive at an understanding unless the understanding contains the particular provision; and
- (c) reference to the supply of something includes reference to the following—
  - (i) the supply of the thing at a particular price;
  - (ii) an offer to supply the thing;
  - (iii) an offer to supply the thing at a particular price;
  - (iv) giving, or offering to give, a discount, allowance, rebate or credit in relation to the supply or proposed supply of the thing;
  - (v) resupply of the thing; and
- (d) reference to the supply of something on a condition includes reference to a refusal to supply the thing without the condition.

### **PART 3—AUTHORISATIONS**

#### **Authorisations for coordination and integration of public passenger services**

**11.** The following things are specifically authorised for the competition legislation—

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- (a) 2 or more service entities making a contract or arrangement, or arriving at an understanding, that includes an identified provision, but only if the contract, arrangement or understanding was first approved by the Passenger Transport Act Minister;
- (b) a service entity giving effect to an identified provision mentioned in paragraph (a);
- (c) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a fare provision;
- (d) a service entity giving effect to a fare provision mentioned in paragraph (c);
- (e) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a provision under which the service entities—
  - (i) are to share revenue or profits received by any of them in relation to a public passenger service of 1 or more of them; or
  - (ii) are to pay all or part of the costs related to providing a public passenger service of 1 or more of them;
- (f) a service entity giving effect to a provision mentioned in paragraph (e);
- (g) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a service entity provision;
- (h) a service entity giving effect to a service entity provision mentioned in paragraph (g);
- (i) 1 or more service entities and a management entity making a contract or arrangement, or arriving at an understanding, containing an identified provision, a fare provision, a management entity provision or a service entity provision;
- (j) a service entity or management entity giving effect to a provision mentioned in paragraph (i);
- (k) a management entity and another entity (the “**system entity**”) making a contract or arrangement, or arriving at an understanding,

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containing a provision about the system entity doing 1 or more of the following in relation to service equipment for 1 or more service entities' public passenger services—

- (i) designing the equipment;
  - (ii) making the equipment;
  - (iii) building the equipment;
  - (iv) installing the equipment;
  - (v) maintaining the equipment;
- (l) an entity giving effect to a provision mentioned in paragraph (k).

### **Provisions limiting application of authorisations**

**12.** Section 11 applies to a service entity in relation to a public passenger service it provides or proposes to provide only if the service entity is—

- (a) if the public passenger service is a service for the carriage of passengers on a railway—
  - (i) a railway manager for the railway; or
  - (ii) a person who is accredited under the *Transport Infrastructure Act 1994*, chapter 6, part 4<sup>3</sup> as a railway operator for the railway; or
- (b) if the public passenger service is a ferry service—the operator of the ferry service; or
- (c) otherwise—the holder of an operator accreditation for the public passenger service.

### **Provisions supporting application of authorisations**

**13.(1)** A thing authorised under section 11, as qualified by section 12, is authorised even if—

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<sup>3</sup> *Transport Infrastructure Act 1994*, chapter 6 (Rail transport infrastructure), part 4 (Accreditation)

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- (a) it has a purpose, or an effect or likely effect, of substantially lessening competition in a market; or
- (b) it has a purpose described in the Trade Practices Act, section 46(1) or the Competition Code, section 46(1);<sup>4</sup> or
- (c) the applicable contract, arrangement or understanding contains a provision that—
  - (i) under the Trade Practices Act, section 4D,<sup>5</sup> is taken to be an exclusionary provision under the Trade Practices Act; or
  - (ii) under the Competition Code, is taken to be an exclusionary provision under the Competition Code.

(2) A thing mentioned in section 11(g), (h), (i), (j), (k) or (l), as qualified by section 12, is authorised even if it involves an entity to which the provision applies engaging in the practice of exclusive dealing in a way described in the Trade Practices Act, section 47 or in the Competition Code, section 47.<sup>6</sup>

## **PART 4—EXPIRY**

### **Expiry**

**14.** This regulation expires at the end of 20 July 2002.

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<sup>4</sup> Trade Practices Act, section 46 (Misuse of market power)  
Competition Code, section 46 (Misuse of market power)

<sup>5</sup> Trade Practices Act, section 4D (Exclusionary provisions)

<sup>6</sup> Trade Practices Act, section 47 (Exclusive dealing)  
Competition Code, section 47 (Exclusive dealing)

## ENDNOTES

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before 27 July 2000. Future amendments of the Competition Policy Reform (Queensland) Public Passenger Service Authorisations Regulation 2000 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

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## **4 List of legislation**

**Competition Policy Reform (Queensland) Public Passenger Service  
Authorisations Regulation 2000 SL No. 196**  
made by the Governor in Council on 20 July 2000  
notfd gaz 21 July 2000 pp 1021–2  
commenced on date of notification  
exp 20 July 2002 (see s 14)