

**ROAD TRANSPORT (PUBLIC PASSENGER SERVICES)  
(TAXI INDUSTRY INNOVATION)  
AMENDMENT REGULATION 2016 – EXPOSURE DRAFT**

**IMPLEMENTATION WORKING GROUP**

**DRAFT EXPLANATORY STATEMENT**

March 2016

## **OVERVIEW**

New technologies and processes for providing on-demand transport have presented additional and compelling consumer choices to Australians. The ACT Government has responded by developing regulated frameworks through which travel modes such as rideshare – one of the potential new forms of on-demand travel, may serve Canberrans, but within the context of community safety, sustained consumer choice and competition, and long-term industry viability and equity.

Regulatory reform of the industry is being undertaken in phases, commenced on 30 October 2015, with interim arrangements remaining in force until legislative reforms are finalised.

### **Phase 1**

This Phase allowed the entry of new business models into the on-demand industry (specifically ridesharing and its associated participants), subject to strong baseline safety requirements, such as driver and vehicle accreditation, and specific insurance coverage. Certain elements of rideshare fares were restricted during extraordinary events.

This Phase also introduced the *transport booking service* (TBS), a regulated entity that can provide booking services of one or more travel modes, including rideshare, taxi and hire car service. The responsibilities and behaviour of the TBS are established through service agreements struck between the road transport authority and TBS.

Regulation amendments providing conditional exemptions enabled the commencement of Phase 1. See the *Road Transport (Public Passenger Services) (Exemptions) Amendment Regulation 2015* (ACT) (repealed) – see [SL2015-11](#). To promote competition, key fees in the taxi industry were lowered.

### **Phase 2**

This Phase introduces an amended regulatory framework for the on-demand public transport industry that builds on structural, operational, competition and safety themes from Phase 1.

The framework sees several important themes:

- Transport booking services form a central and flexible regulated entity through which important aspects of different types of current and futures booking activity are regulated and monitored.
- The regulatory framework allows for a hierarchy of roles and obligations of operators, drivers and transport booking services. This is a reflection of potential industry risks, but it also enables potentially more streamlined processes for becoming and remaining accredited and licensed for participation in one or several service delivery modes.
- The consumer experience is essential, and this is supported through encouragement of new market choices, sustainable competition, and prescribed means of consumer feedback.
- Competition remains a central focus of the reforms, as operators and drivers have regulated choices on modes of service to provide, regulatory burden is as evenly

distributed as possible across modes, and taxis are afforded some key service competitive advantages.

- Safety remains a primary objective of the reforms, as is expressed through well-developed/well-defined accreditation, licensing and reporting requirements.

### **Market composition**

The regulation framework for the market provided by the [Road Transport \(Public Passenger Services\) \(Taxi Industry Innovation\) Amendment Bill 2015](#) and this (circulation draft) regulation distinguishes between booked services and off-street solicited services (that is, 'rank and hail'). Booked services can be provided by taxis, hire cars and rideshare, with information available in the booking process supporting consumer outcomes and safety. Whereas, taxis retain sole access to rank and hail services, with services, vehicles and drivers subject to additional requirements to support public safety and accessibility.

Within the booked services component of the market, the legislative framework distinguishes between those operators, drivers and vehicles permitted to operate independently and those that must be affiliated with a Transport Booking Service (TBS).

### **New elements of the regulation**

Phase 2 of the reforms also introduces new features to the on-demand industry.

The responsibilities and associated offences of TBS are specified further through regulation as they relate to accreditation, licensing, record-keeping, employer relations and fare setting.

Rideshare is recognised through accreditation and licensing requirements of rideshare vehicles, rideshare drivers and passengers. Rideshare is subject to operation only via a TBS, which provides booking and potentially record-keeping functions to rideshare drivers and operators.

Regulation of fares involves maintaining current arrangements of maximum regulated fares for taxis, while restricting components of the negotiated fares of hire cars and rideshare in specific circumstances (for example, in formally declared emergencies).

With Phase 2 the Independent Taxi Service Operators become a permanent form of taxi service, with optional independence from any TBS. Regulation affords independent taxi operators and drivers commercial flexibility to pursue affiliation with TBSs, or the generation of fares from rank-and-hail or direct bookings.

Phase 2 sees the introduction of a 'waiting list' process for issuing taxi operator licences (as compared to the current ad hoc ballot system). Its aim is to increase the certainty of, and lower the wait-time for, receiving an operator's license, thereby enabling the supply of taxis to be more consistent (subject to other regulatory settings on taxi supply).

On 22 February 2016, the Commonwealth Parliament passed the Competition and Consumer Amendment (Payment Surcharges) Bill 2015 to permit the regulation of payment surcharges. The ACT Government had proposed to regulate a 5 per cent cap on such charges in public passenger vehicles.

### **Removing unnecessary regulation and duplication**

A number of prescriptive regulations, for example those governing driver dress and the presence of air conditioning in on-demand public passenger vehicles, are removed and left as commercial and decisions for operators to make in a market with greater opportunity for competition. This supports the emphasis on a regulatory framework focusing on public safety, accessibility and market outcomes.

Discrete requirements that do remain for the industry will be found in minimum service standards and training requirements that apply across taxi, hire car and rideshare services. These requirements have been amended to focus on accessibility and outcomes rather process to allow for innovation and reduce unnecessary regulatory costs.

Other matters will be addressed outside of this regulation through compliance with existing regulatory requirements at various levels of government. For example, information privacy, work health and safety, and driver road behaviour.

### **Continued arrangements for wheelchair accessible taxis**

Wheelchair accessible taxi (WAT) service, including the booking process is deemed to have made a sound contribution to the transport of ACT citizens living with disabilities. WAT service and associated booking service therefore remain fundamentally unchanged, with the exception that the requirements and performance of WAT booking service (WTBS) will delivered and governed through the more effective use of a service contract struck with the road transport authority.

## **PERIOD OF EFFECT**

The amendments are to have effect when the regulatory exemptions of Phase 1 end.

## **REGULATORY IMPACT**

The regulatory impact of the reforms is described in the following publicly available materials:

- *Modelling of policy scenarios for the ACT on-demand transport sector, Final Report* (August 2015)
- *Taxi Industry Innovation Review - Supporting Analysis* (September 2015).

## DETAIL

### **Chapter 1 Placeholder**

Chapter 1 provides the legislative arrangements for commencement of the regulation.

### **Chapter 2 Accreditation of public passenger service operators and transport booking services**

This chapter establishes the initial regulatory elements for the operation of transport booking services (TBS). (The booking service becomes regulated as a ‘transport booking service’ under *Road Transport (Public Passenger Services) Act 2001*.)

The road transport authority also has the authority to accredit people to operate a TBS, different taxis, hire car and ridesharing services for up to six (6) years.

This chapter also reflects an update permitting operators to be accredited if they hold an appropriate working visa.

It also provides for minimum services standards in separate disallowable instruments, through which safety and service standards are (more uniformly) prescribed by the regulator across all modes of on-demand travel; and the removal of accepted service standards to reduce steps in the regulatory process and focus on key prescribed outcomes.

This chapter also demonstrates the move towards promoting a competitive market by removing the requirement of prospective TBS operators to submit financial plans to demonstrate financial capacity, as was the case previously for prospective taxi networks.

This chapter sees the removal of the term ‘restricted taxi’ service from the regulatory framework as an unnecessary additional regulatory term. Wheelchair accessible taxis (WAT) however remain a defined term. Regulatory arrangements for recognition of licensing on-demand public passenger services from other jurisdictions are currently subject to intergovernmental discussions.

### **Chapter 3A Transportation booking services**

This chapter reflects the introduction of the TBS to the on-demand transport framework, and its similar roles across the operation of affiliated taxis, hire car and rideshare services.

The chapter describes requirements of the TBS, and affiliation requirements to the TBS. It defines its employer obligations to affiliated operators when exclusivity is asked of these operators.

It also describes regulated aspects of fares, information to be provided to passengers), and defines obligations regarding record-keeping.

Chapter 3A also defines the activities of Wheelchair Accessible Transport Booking Services (WTBS) to reflect the change in language with the Act. Requirements remain largely unchanged with the exception of some further recognition of the contractual mechanism by which they operate.

**Part 3A.1 Transport booking services – generally**

This Part prescribes the general responsibilities of a TBS. This includes insuring that each affiliated taxi, rideshare and hire care driver and vehicle is appropriately licensed, accredited and insured. However, there are no longer obligations on a TBS to affiliate with a licensed operator or driver, as was the case with taxi networks, leaving businesses to better decide their day-to-day operations.

A TBS must take reasonable steps to ensure their booking service is available at all times to accept taxi and/or rideshare bookings and communicate these to affiliated drivers. TBS are not, however, required to ensure that affiliated vehicles and drivers individually or collectively have similar availability.

When a TBS communicates a booking from a prospective passenger, they must provide that an estimate of the fare is available and sufficient information for the person to identify the bookable vehicle and driver for the hiring. This information helps support effective price competition and public safety outcomes and may assist the hirer to make an informed choice about the booked journey.

**Part 3A.2 Transport booking services – fares, fees and other payments**

New booking and metering technologies, specifically which is provided through ridesharing services, present new ways to structure fares for trips. This Part responds to these new fare regimes by providing that it is an offence for a TBS to apply surge pricing, or accept a jump-the-queue fee or up-front tip during a declared state of alert or declared state of emergency. This is intended to prevent extraordinary fares from being charged when there are extreme mismatches of demand to supply of vehicles and drivers.

**Part 3A.3 Transport booking services – records**

This Part outlines the record-keeping requirements of transport booking services. This includes keeping, maintaining and providing to the Road Transport Authority, a police officer or a member of an emergency service (upon request), an affiliated drivers register, an affiliated operators register and a bookable vehicles register. Each register must contain certain information about each driver (s 70G), operator (s 70H) or bookable vehicle (s 70I) affiliated with the TBS.

Where a TBS has provided an affiliated driver or affiliated operator record to the Road Transport Authority, the Authority may in turn provide certain further information about the driver or operator to the TBS (for example, the suspension or cancellation of a driver's public vehicle licence).

This part also requires a TBS to create and maintain records of its booking activities (including details of each booking) and keep these for at least one year after the date the booking was carried out. The TBS must also provide a booking record to the Road Transport Authority, a police officer or a member of an emergency service upon request.

**Part 3A.4 Transport booking services - wheelchair-accessible taxis**

Reforms to on-demand transportation see booking service obligations of WTBS remain mostly unchanged. This arrangement accords with the policy objective of retaining WAT

service as a critical service to those living with disabilities, and retaining its current performance standards.

To support more efficient regulation of this service, the regulations recognise the mechanism through which a WTBS is regulated is through a service contract, not regulation itself.

**Division 3A.4.1 Wheelchair-accessible hirings**

This Division carries over a existing regulation that prescribes standards for responding to or re-directing wheelchair-booking requests, and providing wheelchair-accessible service. Specifically, the requirement for a WTBS to direct a wheelchair-accessible taxi booking request to an available wheelchair-accessible taxi, and to the driver of that taxi to accept the booking, remain unchanged.

**Division 3A.4.2 Wheelchair-accessible taxi booking services**

This Division defines the purpose of a service contract and the generic terms of service contracts including, among others service and performance requirements of the booking service, record-keeping obligations and requirements for providing records to the Road Transport Authority.

**Chapter 4**

**Part 4.1 Independent taxi service operators**

Part 4.1 provides for independent taxi services operators, based on a pilot program which operated via a conditional exemption under the Act. This provides taxi operators the opportunity to provide rank and hail and word-of-mouth booking services, without a need to affiliate with one or more TBSs.

Eligibility requirements for operators will be contained in a notifiable instrument, and service standards will be prescribed through minimum service standards.

**Part 4.2 Taxi Licences**

The reforms see the introduction of a new process for obtaining standard and wheelchair-accessible taxi licences.

A policy objective of the reforms is to improve the means by which taxi licences are obtained in order to improve overall entry and exit of taxi operators and casual drivers from the industry. Accordingly, the process of periodic releases of standard and wheelchair-accessible taxi licences through a 'ballot' process is replaced by a continual application and granting process, known as a 'waiting list' process.

**Division 4.2.2 Issue of standard taxi licenses and wheelchair-accessible taxi licences**

This Division outlines the process for obtaining a taxi licence through the new waiting list process. Specifically, the Road Transport Authority grants eligible applicants with pre-approval for a taxi licence, and places them on a waiting list, or *pre-approval register*, in the order that the pre-approval was granted.

The Road Transport Authority must then provide timely notice of the availability of a licence to the appropriate person on the waiting list. The person may then make an application for

the taxi license. The Road Transport Authority must, not later than in a required time, provide a decision on the application, tell the applicant of the decision, and issue the license. The required time is 60 days for a standard license and 120 days for a WAT license.

**Division 4.2.3            Taxis licenses – other provisions**

Other provisions for taxi licences – such as their operating conditions, time to renewal, renewal process, amendment terms and surrender – are carried over from previous regulations, and remain unchanged.

To reflect a new framework that includes TBS, taxi operators must report their affiliations, and what trips are associated with which TBS.

With lower the prescriptive level of regulation, taxi operators will not have prescriptive requirements in relation to air conditioning systems in their vehicles. The intention is that increased competition will remove the need for government intervention into how businesses address basic aspects of customer service.

Taxis operators will still require livery and other types of signage, such as roof signs. However the level of prescription is reduced with the Road Transport Authority now able to determine requirements and design rather than approving individual vehicle livery.

To reflect changes in technology, generally, and the different types of technology used by various booking business models, taxi operators will no longer be required to use specific and prescribed equipment for communicating with TBS reflecting a technology neutral approach to the framing of the regulatory requirements.

There is an obligation of an affiliated taxi service operator to report affiliation with more than one TBS to the road transport authority. This requirement reflects the new framework in which taxi operators are able to affiliate with multiple transport TBSs.

Taxi drivers will not be permitted to accept jump-the-queue fees or up-front tips as these types of payments are not consistent with the operation of a regulated maximum fare. This prohibition will not affect the ability of a taxi driver to request a taxi fare deposit (under section 142 of the current Regulations).

**Chapter 4A    Ridesharing**

This new chapter allows for the regulation of a new mode of transportation in the regulated on-demand framework, addressing of rideshare activity, its participants and associated vehicles with a risk-based approach to regulatory requirements.

**Part 4A.1        Ridesharing vehicles**

This Part addresses the regulation of vehicles used in rideshare activity, and encompasses licensing of vehicles, vehicle identification and certain vehicle fittings and display requirements. Vehicle maintenance is outlined in separate instruments for minimum service standards to reflect an essentially uniform application of requirements across taxis, hire car and rideshare vehicles, and a streamlined regulation approach.



Vehicles are defined for exclusion from ridesharing activity, such as ambulances and motorcycles.

The application process for a rideshare vehicle license is outlined, including the eligibility requirements to apply, what additional information can be requested by the Road Transport Authority, and the decision process.

Reasons for refusing an application can relate to the eligibility of the vehicle, the license or accreditation status of the applicant or other disqualifications.

Rideshare vehicles are issued with a label to be displayed on the vehicle when ridesharing activity is underway. This label is removable when the vehicle is in private use, and is designed to prevent easy identification and hailing of the rideshare vehicle.

As with hire care and taxi licences, a rideshare vehicle license may have a term of up to six (6) years before renewal is required. The conditions and processes of rideshare vehicle license renewal, amendment or replacement are also outline and are similar to that for hire cars.

This Division also provides for the inspection of vehicle licenses, their surrender, and updating of address-change details, both by the licensee and the Road Transport Authority.

Ridesharing services may not advertise on vehicles while undertaking rideshare services in order to discourage street-hailing of rideshare vehicles and encourage the acceptance of bookings only through a TBS.

#### **Part 4A.2 Rideshare drivers**

This part addresses a range of responsibilities related to a licensed rideshare driver, including: licensing application, maintenance and display; bookings through transport booking services; record making and management; advertising, behaviour; handling noncompliance notices; and dropping off and picking up passengers.

A rideshare driver must properly apply for, maintain, renew and replace a rideshare public vehicle license if they intend to drive for a rideshare service.

Rideshare drivers can only utilise a vehicle for a rideshare service that has been licensed as a rideshare vehicle.

Rideshare drivers can only accept bookings from an accredited TBS. This is a key requirement that distinguishes rideshare vehicles from taxis, which is the only service that can provide rank and hail service in the on-demand transport framework.

Rideshare drivers must prepare, maintain, submit and preserve for one year certain trip and other records. Regulation will enable transport booking services affiliated with the rideshare driver to undertake certain of these record-keeping responsibilities, a reflection of their own record-keeping capacity and regulated responsibilities. As part of this record-keeping, drivers must ensure current CTP and third party property insurance coverage.

Rideshare drivers must display a rideshare vehicle license label when providing rideshare services.

### **Hire Cars**

A hire car service must declare any affiliation with a TBS. This will assist with effective compliance and enforcement, and a similar requirement in place for taxis and rideshare services.

Trips taken by hire cars that are booked through a TBS must be documented, as this will assist in upholding safety of the service.

This Part sees the removal of certain overly-prescriptive regulations related to driver behaviour and dress of drivers. Regulations concerning advertising, indication of the presence of security cameras, and security-camera records are consolidated in a new chapter (5A).

## **Chapter 5A Bookable vehicles (taxis, rideshare vehicles and hire cars)**

This Chapter provides consolidated regulatory provisions for all bookable vehicle services and covers matters relating to security cameras, and fares and fees (including surcharges), the carriage of animals and potentially injurious goods notifiable accidents and accreditation and licenses.

### **Part 5A.2 Security cameras, GPS tracking and duress alarms**

This Chapter outlines GPS tracking, duress alarm and security camera requirements for bookable vehicles.

A TBS must take reasonable steps to ensure the bookable vehicle is fitted with a GPS tracking device. This recognises the availability of new security features which are largely already being applied to these services, and the need for their effective operation to support consumer confidence.

Where a bookable vehicle accepts cash for payment or a taxi stands or plies for hire, the vehicle must also be fitted with a security camera. A duress alarm accessible to the driver will also be required in taxis. Certain requirements relating to vehicles fitted with a security camera are also addressed in this Chapter. This includes requirements around appropriate signage, proper operation of the camera (including informing the operate parties of non-operational cameras), keeping, not interfering with and destroying recordings and providing a copy of recordings to proper authorities, if requested.

Chapter 5A.2 also provides that the Road Transport Authority may approve standards in relation to security cameras, GPS tracking devices and duress alarms in bookable vehicles. This includes, for example, matters relating to the timing of installation, positioning, operation and acceptable kinds of security cameras.

### **Part 5A.3 Fare, fees and other payments**

This Part makes it an offence for a TBS, rideshare driver or taxi driver to accept an up-front tip at any time. It also makes it an offence for a rideshare driver to apply surge pricing and jump-the-queue fees during a declared state of alert or declared state of emergency.

As announced, electronic payment surcharges are to be capped at 5 per cent. This Part also makes it an offence to impose or collect more than the maximum allowable payment surcharge. Recently passed Commonwealth legislation allows for the regulation of payment surcharges by the Australian Government.

**Part 5A.4 Bookable vehicle service operators**

This Part outlines offences relating to the display of inappropriate material, breaches of a noncompliance notice and appropriate notification of notifiable accidents (for example, an accident or incident involving the vehicle and where someone is killed or injured) including reporting details such as time and location, the vehicle and driver and details of injured parties.

**Part 5A.5 Bookable vehicle licensees**

This Part provides that a bookable vehicle licensee (other than a hire car licensee) must ensure that the bookable vehicle is fitted with a child restraint anchorage that complies with the Australian Design Rules. This is to allow for an appropriate child car seat to be properly secured, if required.

**Part 5A.6 Bookable vehicle drivers**

This Part addresses a range of driver responsibilities and restrictions relating to carriage of animals and goods, passenger drop-off and pick up, solicitation of passengers, noncompliance notices and directions by police or other authorised persons.

**Part 5A.7 Bookable vehicle passengers**

This Part addresses a range of passenger responsibilities and restrictions relating to appropriate language and behaviour, intoxication, carriage of animals and goods, finding of lost property and directed exit from the bookable vehicle (whether this be a taxi, hire care or rideshare vehicle).

**Chapter 10 Transitional**

With changes to taxi licence provisions, this Chapter ensures existing terms and conditions for taxi licences transition over to the new licence arrangements.

Further transitional amendments are to be drafted.

**Schedule 1 Service standards**

These provisions provide for the matters that may be considered in the making of minimum service standards by the Road Transport Authority for the new elements of TBS and rideshare.

**Schedule 1 Consequential amendments**

The amendments related to consequential changes result from amendments within the regulation. These are subject to further drafting.

**Part 1.4 Workers Compensation Regulation 2002**

This amendment provides for access to workers compensation for drivers in instances involving contracts of bailment and restricted TBS affiliation agreements.