



Australian Capital Territory

Road Transport (Public Passenger Services) Amendment Regulation 2012 (No 2)

Subordinate Law SL2012-37

The Australian Capital Territory Executive makes the following regulation under the *Road Transport (Public Passenger Services) Act 2001* and the *Road Transport (General) Act 1999*.

Dated 7 September 2012.

SIMON CORBELL
Minister

JOY BURCH
Minister



Australian Capital Territory

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1 Name of regulation

This regulation is the *Road Transport (Public Passenger Services) Amendment Regulation 2012 (No 2)*.

2 Commencement

This regulation commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This regulation amends the *Road Transport (Public Passenger Services) Regulation 2002*.

Note This regulation also amends the *Road Transport (Offences) Regulation 2005* (see sch 1).

4 Offences against regulation—application of Criminal Code etc
Section 4A, note 1

insert

- s 74 (Accredited taxi network provider's taxi booking service to direct wheelchair-accessible taxi hiring to WCBS)
- s 74A (WCBS to direct driver to accept wheelchair-accessible taxi hiring)
- s 74B (Accredited taxi network provider to direct driver to accept wheelchair-accessible taxi hiring)
- s 75 (Booking service to give estimated arrival time for wheelchair-accessible taxis)
- s 101A (Wheelchair-accessible taxi operator to have equipment and arrangements with WCBS)
- s 125B (Wheelchair-accessible taxi driver to comply with WCBS's approved procedures and rules)
- s 154M (Offence—operate WCBS without entitlement)

5 Sections 74 and 75

substitute

74 Accredited taxi network provider's taxi booking service to direct wheelchair-accessible taxi hiring to WCBS

- (1) This section applies if—
- (a) a person requests a wheelchair-accessible taxi booking through an accredited taxi network provider's taxi booking service; and
- Note* **Accredited taxi network provider's taxi booking service**—see the dictionary.
- (b) the booking is being made for a wheelchair-dependent person; and
 - (c) there is a WCBS operating in the Territory.
- Note* **WCBS**—see s 154I.
- (2) The accredited taxi network provider commits an offence if the accredited taxi network provider's taxi booking service fails to, without delay, direct the booking request to a WCBS.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

74A WCBS to direct driver to accept wheelchair-accessible taxi hiring

- (1) This section applies if—
- (a) a person requests a wheelchair-accessible taxi booking through a WCBS; and
- Note* **WCBS**—see s 154I.
- (b) the booking is being made for a wheelchair-dependent person; and

- (c) a wheelchair-accessible taxi is available for hire; and
 - (d) the taxi's driver does not accept an offer of the booking.
- (2) The WCBS operator commits an offence if the WCBS fails to, without delay, direct the driver to accept the booking.

Maximum penalty: 10 penalty units.

Note It is an offence for a driver of a wheelchair-accessible taxi to not comply with the direction (see s 114 (3)).

- (3) An offence against this section is a strict liability offence.

74B Accredited taxi network provider to direct driver to accept wheelchair-accessible taxi hiring

- (1) This section applies if—
- (a) a person requests a wheelchair-accessible taxi booking through an accredited taxi network provider's taxi booking service; and
- Note* **Accredited taxi network provider's taxi booking service**—see the dictionary.
- (b) the booking is being made for a wheelchair-dependent person; and
 - (c) there is no WCBS operating in the Territory; and
- Note* **WCBS**—see s 154I.
- (d) a wheelchair-accessible taxi operated by an affiliated taxi service operator is available for hire; and
 - (e) the taxi's driver does not accept an offer of the booking.

- (2) The accredited taxi network provider commits an offence if the accredited taxi network provider's taxi booking service fails to, without delay, direct the driver to accept the booking.

Maximum penalty: 10 penalty units.

Note It is an offence for a driver of a wheelchair-accessible taxi to not comply with the direction (see s 114 (3)).

- (3) An offence against this section is a strict liability offence.

75 Booking service to give estimated arrival time for wheelchair-accessible taxis

- (1) A WCBS operator commits an offence if—

- (a) a person books a wheelchair-accessible taxi through the WCBS; and

Note **WCBS**—see s 154I.

- (b) the WCBS fails to, without delay, tell the person the estimated time when, or period within which, the taxi will arrive at the place where the taxi is to pick up the person.

Maximum penalty: 10 penalty units.

- (2) An accredited taxi network provider commits an offence if—

- (a) a person books a wheelchair-accessible taxi through the accredited taxi network provider's taxi booking service; and

Note **Accredited taxi network provider's taxi booking service**—see the dictionary.

- (b) the accredited taxi network provider's taxi booking service fails to, without delay, tell the person the estimated time when, or period within which, the taxi will arrive at the place where the taxi is to pick up the person.

Maximum penalty: 10 penalty units.

Note If a WCBS is operating in the Territory, the accredited taxi network provider's taxi booking service must direct any request for a wheelchair-accessible taxi booking to a WCBS (see s 74).

- (3) An offence against this section is a strict liability offence.

6 New section 101A

insert

101A Wheelchair-accessible taxi operator to have equipment and arrangements with WCBS

- (1) This section applies if a WCBS is operating in the Territory.

Note **WCBS**—see s 154I.

- (2) A person commits an offence if—
 - (a) the person is an accredited operator of a wheelchair-accessible taxi; and
 - (b) the taxi is being operated as a wheelchair-accessible taxi; and
 - (c) the person does not have an arrangement in place with a WCBS operator for the provision of a taxi booking service for the taxi.

Maximum penalty: 10 penalty units.

- (3) A person commits an offence if—
 - (a) the person is an accredited operator of a wheelchair-accessible taxi; and

- (b) the taxi is being operated as a wheelchair-accessible taxi; and
- (c) the taxi is not fitted with equipment that allows the taxi driver to send messages to, and receive messages from, a WCBS.

Maximum penalty: 10 penalty units.

- (4) An offence against this section is a strict liability offence.

7 Special responsibilities of wheelchair-accessible taxi drivers Section 114 (2) and (3)

omit

network

8 Section 114 (3), note

substitute

Note If a driver of a wheelchair-accessible taxi does not accept an offer of a booking for a wheelchair-dependent person, the WCBS or accredited taxi network provider's taxi booking service must direct the driver to accept the booking (see s 74A and s 74B).

9 Section 114 (4), definition of *network booking service*

substitute

booking service means—

- (a) if there is no WCBS operating in the Territory—an accredited taxi network provider's taxi booking service with which the accredited operator of the taxi is affiliated; or

Note **WCBS**—see s 154I. **Accredited taxi network provider's taxi booking service**—see the dictionary.

- (b) if there is a WCBS operating in the Territory—a WCBS through which the wheelchair-accessible taxi may be booked.

10 New sections 125A and 125B*insert***125A Road transport authority may approve WCBS's procedures and rules**

- (1) The road transport authority may approve—
 - (a) a WCBS's procedures for using equipment that allows taxi drivers to send messages to, and receive messages from, the WCBS (the *WCBS's approved procedures*); and
 - (b) a WCBS's rules for wheelchair-accessible taxi drivers (the *WCBS's approved rules*).
- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

125B Wheelchair-accessible taxi driver to comply with WCBS's approved procedures and rules

- (1) This section applies if a WCBS is operating in the Territory.
- (2) A person commits an offence if—
 - (a) the person is a wheelchair-accessible taxi driver; and
 - (b) the taxi is fitted with equipment that allows the taxi driver to send messages to, and receive messages from, a WCBS; and
 - (c) the WCBS operator gives the person the WCBS's approved procedures for the equipment; and
 - (d) the person does not use the equipment in accordance with the WCBS's approved procedures for the equipment.

Maximum penalty: 5 penalty units.

- (3) A person commits an offence if—
- (a) the person is a wheelchair-accessible taxi driver; and
 - (b) a WCBS operator gives the person the WCBS's approved rules; and
 - (c) the person does not comply with the WCBS's approved rules.
- Maximum penalty: 5 penalty units.
- (4) An offence against this section is a strict liability offence.

11 Requirements about acceptance of taxi hirings

Section 129 (6)

substitute

- (6) To remove any doubt, a reference in this section to a ***hiring*** includes a hiring made using—
- (a) an accredited taxi network provider's taxi booking service; and
- Note* ***Accredited taxi network provider's taxi booking service***—see the dictionary.
- (b) a WCBS.
- Note* ***WCBS***—see s 154I.

12 New division 4.3.4B*insert***Division 4.3.4B Wheelchair-accessible taxi
centralised booking services****154I Meaning of *wheelchair-accessible taxi centralised
booking service (WCBS)***

In this regulation:

wheelchair-accessible taxi centralised booking service (WCBS)—

- (a) means a service that—
 - (i) accepts bookings only for wheelchair-accessible taxis for wheelchair-dependent people; and
 - (ii) sends messages about the bookings to wheelchair-accessible taxi drivers by electromagnetic energy to equipment in taxis that can receive the messages; but
- (b) does not include an accredited taxi network provider's taxi booking service.

Note *Accredited taxi network provider's taxi booking service*—see the dictionary.

154J WCBS—minimum service standards

- (1) The road transport authority may approve minimum service standards (the *approved minimum service standards*) for the operation of a WCBS.
- (2) The approved minimum service standards for a WCBS may make provision about any matter relating to the safe, reliable or efficient provision of the WCBS.

Examples

- 1 arrangements to ensure services during peak and off-peak times
- 2 reporting requirements
- 3 arrangements between accredited operators of wheelchair-accessible taxis and wheelchair-accessible taxi drivers
- 4 procedures for processing taxi subsidy vouchers

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An approval is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

154K WCBS—service contracts

- (1) The road transport authority may, on behalf of the Territory, enter into a contract (a *service contract*) for the operation of a WCBS with a person (the *WCBS operator*).
- (2) A service contract must state whether the right given under the contract to operate a WCBS is an exclusive right to operate the service.

- (3) A service contract may make provision in relation to the operation of a WCBS and the administration of the contract, including, for example—

- (a) service requirements under the contract; and

Examples

- 1 communication options required to meet customer needs
- 2 procedures to deal with failure of technical equipment
- 3 recording and resolution of customer complaints

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (b) the transfer, suspension, cancellation and surrender of the contract; and

- (c) the fees (if any) payable under the contract; and

- (d) the adjustment of payments and refunds in relation to any contract fees; and

- (e) financial or other remedies for breaches of the contract; and

- (f) the records (including accounts) to be made and kept, how they are to be made and kept, and their inspection; and

- (g) the provision of information and reports to the road transport authority about the WCBS and the verification of the information and reports.

- (4) Subsection (3) does not limit the matters about which a service contract may make provision.

154L WCBS—entitlement to operate

A person is entitled to operate a WCBS in the ACT only if the person holds a service contract for the service.

154M Offence—operate WCBS without entitlement

- (1) A person commits an offence if the person—
 - (a) operates a WCBS in the ACT; and
 - (b) is not entitled under section 154L to operate the service.Maximum penalty: 20 penalty units.
- (2) An offence against this section is a strict liability offence.

154N Exemption for WCBS operator—Act, s 128 (1) (b)

- (1) The road transport authority may exempt a WCBS operator from the following provisions:
 - (a) the Act, section 32 (Entitlement to operate taxi networks);
 - (b) the Act, section 33 (Operating taxi network without entitlement).
- (2) An exemption is subject to the following conditions—
 - (a) that the WCBS operator does not breach the WCBS operator's service contract; and
 - (b) that the WCBS operator complies with the approved minimum service standards for a WCBS (if any).

Note An exemption may be subject to other conditions stated in the exemption (see Act, s 128 (2)).
- (3) The road transport authority may end an exemption if it is satisfied on reasonable grounds that the WCBS operator—
 - (a) is in breach of a condition of the exemption; or

- (b) has failed to comply with a requirement of the road transport legislation (other than the legislation mentioned in subsection (1)).

Note 1 **Road transport legislation**—see the *Road Transport (General) Act 1999*, s 6.

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any notifiable instruments (see *Legislation Act*, s 104).

- (4) If the road transport authority decides to end an exemption, the authority must give the WCBS operator written notice stating—
- (a) that the authority has decided to end the exemption; and
 - (b) the grounds for ending the exemption; and
 - (c) when the exemption ends; and
 - (d) any additional information the road transport authority considers appropriate.

Note 1 For how documents may be given, see the *Legislation Act*, pt 19.5.

Note 2 For when a posted notice is taken to be given, see the *Road Transport (General) Regulation 2000*, s 9B.

- (5) To remove any doubt, a WCBS operator that is the subject of an exemption in force under this section is not an accredited taxi network provider.

13 Dictionary, note 3

insert

- taxi booking service

14 Dictionary, new definition of *accredited taxi network provider's taxi booking service*

insert

accredited taxi network provider's taxi booking service means a taxi booking service provided by an accredited taxi network provider for its taxi network.

15 Dictionary, definition of *approved minimum service standards*

substitute

approved minimum service standards—

- (a) for the operation of a regulated service—see section 18B; or
- (b) for the operation of a WCBS—see section 154J.

16 Dictionary, new definitions

insert

service contract, for division 4.3.4B (Wheelchair-accessible taxi centralised booking services)—see section 154K.

WCBS—see section 154I.

WCBS operator—see section 154K.

WCBS's approved procedures—see section 125A (1) (a).

WCBS's approved rules—see section 125A (1) (b).

wheelchair-accessible taxi centralised booking service (WCBS)—see section 154I.

**Schedule 1 Road Transport (Offences) Regulation 2005—
Consequential amendments**

(see s 3)

[1.1] Schedule 1, part 1.11, items 104 and 105

substitute

104	74 (2)	accredited taxi network provider’s taxi booking service not, without delay, direct booking request to WCBS	10	231	
105	74A (2)	WCBS not, without delay, direct driver of wheelchair-accessible taxi to accept booking	10	231	

Schedule 1 Road Transport (Offences) Regulation 2005—Consequential amendments

Amendment [1.2]

105A	74B (2)	accredited taxi network provider's taxi booking service not, without delay, direct driver of wheelchair-accessible taxi to accept booking	10	231	
105B	75 (1)	WCBS not tell waiting time for wheelchair-accessible taxi	10	231	
105C	75 (2)	accredited taxi network provider's taxi booking service not tell waiting time for wheelchair-accessible taxi	10	231	

[1.2] Schedule 1, part 1.11, new items 132A and 132B

insert

132A	101A (2)	wheelchair-accessible taxi operator not have arrangements with WCBS operator for booking service	10	231	
132B	101A (3)	wheelchair-accessible taxi operator not have communications equipment fitted	10	231	

[1.3] Schedule 1, part 1.11, items 148 and 149*substitute*

148	114 (2)	wheelchair-accessible taxi driver not tell booking service of hiring availability	10	231	
149	114 (3)	wheelchair-accessible taxi driver not comply with booking service direction to accept booking for person in wheelchair	10	231	

[1.4] Schedule 1, part 1.11, new items 171A and 171B*insert*

171A	125B (2)	wheelchair-accessible taxi driver not use communications equipment in accordance with WCBS's approved procedures	5	176	
171B	125B (3)	wheelchair-accessible taxi driver not comply with WCBS's approved rules	5	176	

Schedule 1 Road Transport (Offences) Regulation 2005—Consequential amendments

Amendment [1.5]

[1.5] Schedule 1, part 1.11, new item 229A

insert

229A	154M	operate WCBS without entitlement	20		
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Endnotes

1 Notification

Notified under the Legislation Act on 10 September 2012.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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