

Australian Capital Territory

Road Transport (Public Passenger Services) Exemption 2006 (No 1)

Disallowable instrument DI2006–180

made under the

Road Transport (Public Passenger Services) Act 2001, section 84 (Minister may exempt vehicles and people from Act)

EXPLANATORY STATEMENT

Overview

The ACT Government Department of Disability, Housing & Community Services (DHCS) maintains a program whereby Disability Support Officers (DSOs) employed by DHCS may, on occasion, organise holidays or excursions for DHCS clients and, as part of that, provide transportation using a Government vehicle with less than 10 seats. DHCS wishes to seek a consideration from clients for the transportation. Receipt of that consideration would appear to bring the transportation provided within the relevant parts of the regulatory regime for hire cars provided by the *Road Transport (Public Passenger Services) Act 2001* (the Act) and the *Road Transport (Public Passenger Services) Regulation 2002* (the Regulation).

The purpose of this instrument is to exempt DHCS from the provisions of the Act (and, as a consequence, the provisions of the Regulation).

Section 84(1) of the Act states that the Minister may exempt vehicles and people from the Act. Under section 84(2) such a declaration is a Disallowable Instrument. Section 104 of the *Legislation Act 2001* provides that a reference to an Act includes a reference to the statutory instruments made, or in force under the Act, including any regulations.

Details

In the circumstances of the transport being provided by DHCS, normally the organisation would need to seek accreditation as a hire car operator and hire car licences for the vehicles. However whilst the DSO drives the vehicle, he or she also provides behavioural support and personal care to individuals. Therefore the total service provided is not a service that can be provided by the hire car industry.

Under the Regulation, there are a number of considerations applied to a person's application for accreditation to operate a public passenger service. For example, a person must be considered a suitable person to operate a public passenger service, free from certain convictions, and must establish service standards to be approved by the Authority. Included in the operator's accepted services standards, are details in regards to the cleaning and maintenance of vehicles and the operator must ensure only persons licensed to drive a public passenger vehicle will operate vehicles for the operator.

DHCS ensures the vehicles used to transport clients on holidays or excursions are restricted to ACT Government vehicles. All vehicles are serviced and maintained within the ACT Government and manufacturer's standards, and are kept in a clean condition in-line with the ACT Government's Fleet Management requirements.

As with licensed hire car drivers, it is a condition of employment for a DSO to pass a medical examination by Health Services Australia and complete a police character check. The other requirement, for hire car driver training, is related to customer service aspects and the need for knowledge of tourist and other significant sites in the ACT. These requirements are not applicable to DSOs who are trained in relation to their own client base.

DHCS provides this service to DHCS clients only and it would not appear reasonable to require DHCS to apply for hire car service operator accreditation. Nevertheless, the persons employed and the vehicles used to provide the service are fit to provide transportation to DHCS clients.

Clients will pay a contribution to the cost of the transport and therefore an exemption from the *Road Transport (Public Passenger Services) Act 2001* is required.