

2015

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) (TAXI INDUSTRY
INNOVATION) AMENDMENT BILL 2015**

EXPLANATORY STATEMENT

**Presented by
Andrew Barr MLA
Chief Minister**

This explanatory statement relates to the Road Transport (Public Passenger Services) (Taxi Industry Innovation) Amendment Bill 2015 (the Bill) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

Overview

New digital technologies and emerging alternative business models are presenting innovative and exciting opportunities for the on-demand public transport industry in Australia and around the world. These include smartphone applications (apps) to book, track and pay for taxis, and new concepts such as ‘ridesharing’. They offer the ability to expand the range of, and access to, reliable and convenient transport options for consumers, and through this promoting consumer choice, as well as competition in value and service.

The amendments in the Bill support change that improves the passenger transport experience and keeps passengers and the broader community as safe as they are today. More innovative and different public transport solutions can support economic growth in the Territory, provide a competitive environment that serves consumers well, and contribute to Canberra as a leading digital city. The proposed reforms offer net economic benefits to the Territory in the order of \$3.5 million per annum after five years.

Role and regulation of taxis

The taxi industry plays an important role in the Territory’s public transport system providing consumers with a safe, convenient and accessible travel choice. Taxis are a source of mobility for many people, particularly for people living with a disability.

The taxi and hire car industry is currently subject to regulation which seeks to promote community and driver safety, consumer protection and sustainable and efficient supply.

New technologies

In recent years, new and innovative technologies and business models have emerged in a number of capital cities in Australia (and the world), primarily through web based technology and smartphone apps. These involve booking and payments systems, and ridesharing services – using private vehicles for passenger transport and reward.

These platforms provide an extension of the on-demand transport market. As for other examples of the ‘sharing economy’, these platforms make it easier for consumers to negotiate and engage directly with service providers. Consumers are also provided with a higher level of information and opportunity for price comparison in advance. As a result, these newer interfaces involve different risks compared to traditional arrangements such as rank and hail work, where a taxi driver picks a passenger up from the street.

Existing members of the taxi industry are also engaging with new practices. Many taxi networks, for example, have their own web or app-based booking systems.

Ridesharing and app-based booking systems have been readily taken up by consumers where they have been introduced, with companies that provide booking platforms gaining market share in Australia and overseas. These market trends will have significant implications for all stakeholders in the taxi and hire car market – from consumers, to drivers, operators and taxi networks.

Ridesharing provides an opportunity for competition and additional supply in the market. Competition protects consumers who are able to shop around for price and service. As evidenced in other jurisdictions, regulatory requirements can be adjusted to allow for rideshare while addressing risks.

The amendments

The changes in the Bill allow for innovation and competition in the taxi and hire car public passenger transport market. At the same time, risks to public safety and access, consumer protection and the ongoing provision of services by industry (on a level playing field) are addressed.

The proposed amendments allow for the entry of new businesses into the on-demand public transport market by:

- introducing the concept of ridesharing and defining its associated participants; and
- allowing for the regulation of ridesharing to encompass a range of measures that support public safety – through appropriate licensing, accreditation and insurance requirements for on-demand transport providers.

The proposed regulatory framework puts in place a hierarchy of vehicle/driver licensing and modes of operation based on information flows and features of the respective services to address risk, as follows:

- taxis – may operate in both the rank and hail sector as well as booked services sector, they can operate independently or through a Transport Booking Service (TBS);
- hire cars – can only provide booked services, but can operate independently or through a TBS;
- ridesharing – can only provide a booked service through a TBS.

The amendments also provide for competition between existing industry participants. They provide a regulatory framework for TBSs that draws together traditional taxi networks, rideshare services and third-party booking systems, recognising their comparable roles in booking and dispatch services. The amendments also remove restrictions on the ability of drivers and operators to access work through multiple TBSs. There are additional actions to support fairness for drivers – through the provision of workers' compensation and dispute resolution.

The amendments will support consumer outcomes by allowing for regulated fares across services. For taxis the current maximum fare arrangements will remain until effective competition is established. For rideshare and hire cars, which will operate based on

informed decisions for negotiated prices, proposed amendments that allow fare regulation will be available, including to address surge pricing in declared emergency situations.

The proposed amendments also allow for regulation of electronic payments surcharges to address concerns with current industry practices.

Human Rights

Offences related to amendments in the Bill include new strict liability offences for TBSs, rideshare operators and related parties engaged in public passenger services:

- providing services when persons or vehicles are unlicensed or unaccredited;
- persons pretending they (or vehicles used) are licensed, accredited or affiliated; and
- providing services without taking reasonable step to ensure that required insurance arrangements are in place.

These may be seen as engaging rights under the *Human Rights Act 2004* (the HRA) in relation to criminal proceedings (presumption of innocence until proven guilty). Section 22(1) of the HRA provides that everyone charged with a criminal offence has the right to be presumed innocent until proven guilty according to law.

A strict liability offence under section 23 of the *Criminal Code 2002*, means that there are no fault elements for the physical elements of the offence to which strict liability applies. Essentially, this means that conduct alone is sufficient to make the defendant culpable.

Section 28 of the HRA provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society. Section 28(2) of the HRA provides that in deciding whether a limit on a human right is reasonable, all relevant factors must be considered, including:

- a) the nature of the right affected;
- b) the importance of the purpose of the limitation;
- c) the nature and extent of the limitation;
- d) the relationship between the limitation and its purpose; and
- e) any less restrictive means reasonable available to achieve the purpose the limitation seeks to achieve.

a) Nature of the rights affected

The strict liability offences arise in the regulatory context where the sanction of criminal penalties is justified by outcomes such as public safety, consumer confidence and ensuring that regulatory schemes are observed. The offences also arise in a context where defendants can reasonably be expected, because of their business operations and regulated nature of their work, to know the requirements of the law. It is incumbent on this industry, which provides a direct service to the public, including vulnerable people and people living with a disability – for drivers and operators to know and understand their regulatory

requirements under the law. This is in the interests of everybody's safety and the integrity of the on demand public passenger industry.

The rationale is that persons who carry out a business of public passenger transport can be expected to be aware of their duties and obligations to the wider public. While the operation of rideshare services may involve persons using private vehicles to provide services, there is a clear decision to conduct a business and enter into arrangements with a transport booking service to derive income.

b) Importance of the purpose of the limitation

The use of strict liability offences for parties under the Bill can be justified on the basis that offences will apply to people who choose to engage in regulated activity involving members of the public, undertaken on public roads and are on notice that they are operating in a regulated context. Further, members of the public would also be engaging in transactions that require the effective identification of persons and vehicles to support their safety, health and for some members of the public to access vital services and the broader community.

This Bill sits within a regulatory context and people and companies who undertake activities under an authority will be aware of their responsibilities and obligations in relation to the permit or licence. Compliance with the provisions of the Bill is important to ensure the safety and access to the community of public passenger transport and the integrity of licensing and accreditation requirements. Further under the legislative framework, industry participants, and in particular drivers are required to undertake minimum levels of training. Information is also to be provided to drivers under work, health and safety laws, and additional guidance to drivers is provided by government and the regulator in terms of compliance and expectations.

c) Nature and extent of the limitation

Applying strict liability to provisions within the Bill can be considered a reasonable limit set by law that will assist in achieving the policy objectives. An individual's rights and freedoms have, in some cases, been slightly fettered on the basis that it is in the wider public interest that the businesses be properly regulated. Any restrictions or impositions applied to individual rights have been chosen on the basis that they are necessary and that they represent the least restrictive approach possible in order to achieve the policy objective.

The penalties for offences are within the normal range for strict liability offences. Where similar offences already exist in the *Road Transport (Public Passenger Services) Act 2001* (for example, section 67 – Pretending vehicles are licensed hire cars) the penalties for the new offences are comparable.

The inclusion of strict liability clauses for lesser offences in the Bill will support the application of an infringement notice scheme. Infringement notice schemes minimise the cost of litigation for the Territory while offering registrants a choice concerning whether to accept a lesser penalty without admitting the offence or to remain liable to prosecution.

Under the Criminal Code, all strict liability offences have a specific defence of mistake of fact. Subclause 23(3) of the Criminal Code makes it clear that other defences may still be available for use in strict liability offence cases. The general common law defences of insanity and automatism still apply, as they go towards whether a person has done something voluntarily, as well as whether they intended to do the act.

d) Relationship between the limitation and its purpose

The reforms within the Bill aim to reduce regulatory barriers to a competitive and level playing field for market participants while supporting protection of the community standards. The Government considers that the strict liability offences contained in this Bill are relevant to the policy objectives of minimising the risk of harm to the community, which is demonstrably justifiable and reasonable. The community expects that despite what types of business people engage themselves, in that they operate in a community acceptable standard.

e) Less restrictive means

It is not considered that there are any less restrictive means to achieve the purpose of the reforms. Similar provisions already exist in the *Road Transport (Public Passenger Services) Act*.

Clause Notes

Clause 1 Name of Act

This Act is the *Road Transport (Public Passenger Services) (Taxi Industry Innovation) Amendment Act 2015*.

Clause 2 Commencement

This Act commences on a day fixed by the Minister by written notice.

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

Clause 3 Legislation amended

This clause gives effect to the amendments to the *Road Transport (Public Passenger Services) Act 2001* and legislation in the schedules to this Act.

Clause 4 Section 2

This clause amends the objects of the Act to recognise new services and business models for on-demand public passenger services and supports a regulatory framework that can accommodate change and innovation while meeting community expectations including safety and reliability. This reflects the intent of the reforms included within the Bill.

Clause 5 Offences against the Act – application of Criminal Code etc Section 4A, note 1

This clause omits reference to offences relating to taxi networks that are no longer relevant with the replacement provisions relating to transport booking services.

The clause also substitutes references to new offences relating to the new service of rideshare.

Clause 6 Functions of the road transport authority Section 5 (a) and (b)

This clause replaces section 5(a) of the Act to recognise the accreditation of transport booking services and licensing rideshare vehicles within the remit of the function of the road transport authority.

Clause 7 Section 6 heading

This clause makes a minor amendment to simplify the heading of section 6 which relates to registers under the Act.

Clause 8 Section 6 (1), note

The note to section 6(1) is amended to recognise the new concepts of rideshare and transport booking services.

Clause 9 **Meaning of *bus* and *public bus***
Section 10A, definition of *bus*

This clause amends the definition of bus to exclude limousines, which will allow limousines to be treated as a hire car under section 61 of the Act. This amendment reflects the Government's considered view that limousine services are more closely aligned with hire car services than mass public transport vehicles.

Clause 10 **Part 3**

Part 3 **Transport Booking Services**

Division 3.1

This division introduces the new concept of transport booking services and related parties who would engage the services of, and apply a regulatory framework for, the accreditation and licensing of participants and operation of services.

Section 28 **Meaning of *transport booking service* and *accredited transport booking service***

As defined under section 28(1), transport booking services are providers of booking and dispatch services to providers of bookable on-demand public transport. They do not include booking and dispatch services provided by a person or entities that are bookable vehicle drivers or others prescribed under regulation. The intention is to reflect the third-party nature of the relationship between the transport booking service and the driver or other parties to the passenger service. Bookings made with bookable vehicle drivers are direct bookings.

Section 28(1) defines accredited transport booking services as those accredited under regulation. This aligns with requirements for transport booking service accreditation under Division 3.2.

Section 29 **Meaning of *bookable vehicle* and *bookable vehicle driver***

Section 29 provides that bookable vehicles and drivers include those for taxis, rideshare and hire cars. While taxis may also provide rank and hail services the nature of their relationship with a transport booking service relates to the booking function.

Division 3.2

This division provides for the accreditation of transport booking services. Only accredited transport booking services may provide services to bookable vehicles or drivers.

Section 30 **Transport booking service – purpose of accreditation**

Section 30 defines the purpose of accreditation of a transport booking service is related to relevant persons suitability and capacity to operate services and comply with regulation. These are comparable to previous requirements for taxi networks.

Section 31 **Transport booking service – regulations about accreditation**

This section provides for an accreditation system that encompasses aspects such as conditional accreditation and arrangements for actions related to the operation of the

accreditation including issuing, refusing, surrendering and disciplinary actions and orders to pay.

Regulations under section 31(2) will directly address suitability and capacity matters considered under the purpose of accreditation of transport booking services under section 30.

Section 32 Transport booking service must be accredited

To support compliance with the regulatory framework, section 32 provides a strict liability offence for a person operating an unaccredited transport booking service. Penalty provisions are consistent with those for unaccredited or unlicensed activity within the Act.

Note for corporations, penalties to offence may be revised or added to by a court under section 36I.

Section 33 Transport booking service must comply with conditions of accreditation

To support compliance with the regulatory framework, section 34 provides a strict liability offence for a transport booking service which fails to comply with the conditions of its accreditation. Penalty provisions are consistent with those for unaccredited or unlicensed activity within the Act.

Note for corporations, penalties to offence may be revised or added to by a court under section 36I.

Section 34 Pretend to be accredited transport booking service

To support compliance with the regulatory framework, section 33 provides a strict liability offence for a person pretending to be an accredited transport booking service. This offence allows for remedial action circumstances prior to the provision of a rideshare service. Penalty provisions are consistent with similar offences within the Act.

Division 3.3 Transport booking service—affiliated drivers and affiliated operators

This division sets out the requirements for affiliation of drivers and operators with transport booking services. Drivers and operators should affiliate with one or more transport booking services unless they are independent service operators. Consistent with current operations and regulatory requirements, hire car operators and drivers will not be required to be affiliated.

Section 35 Meaning of *affiliated driver*

Section 35 defines affiliated driver based on an agreement between a bookable vehicle driver (which includes taxi, hire car and rideshare drivers as per section 29) and a transport booking service.

Section 36 Meaning of *affiliated driver agreement*

Section 36 defines an affiliated driver agreement to involve an agreement between a bookable vehicle driver – who provides a relevant public passenger services – and transport service – who provides booking services.

Section 36A Pretend to be affiliated driver

To support compliance with the regulatory framework, section 36A provides a strict liability offence for a person pretending to be an affiliated driver. This offence allows for remedial action circumstances prior to the provision of a public passenger service. Penalty provisions are consistent with those for unaccredited or unlicensed activity within the Act.

Section 36B Meaning of *affiliated operator*

Section 35 defines affiliated driver based on an agreement between a taxi service operator or a hire car service operator and a transport booking service. For rideshare purposes, a rideshare driver is a rideshare operator (see section XX).

Section 36C Meaning of *affiliated operator agreement*

Section 36 defines an affiliated operator agreement to involve an agreement between a taxi service operator or a hire car service operator and transport service. For rideshare purposes, a rideshare driver is a rideshare operator (see section XX).

Section 36D Pretend to be affiliated driver

To support compliance with the regulatory framework, section 36A provides a strict liability offence for a person pretending to be an affiliated driver. This offence allows for remedial action circumstances prior to the provision of a public passenger service. Penalty provisions are consistent with those for unaccredited or unlicensed activity within the Act.

Section 36E Taxi driver or taxi service operator must be affiliated with transport booking service

This section provides strict liability offences for taxi drivers or taxi operators providing services when they are unaffiliated unless they are an approved independent taxi service operator or a driver working to an approved independent taxi service operator under regulation. Affiliation with more than one transport booking service is permitted.

As provided under the independent taxi operator pilot (the defunct Division 4.3.4A of the Road Transport (Public Passenger Services) Regulation 2002 further requirements to independent taxi operators may apply to affiliated operators to support consumer outcomes, administration and compliance.

Penalty provisions are consistent with those for unaccredited or unlicensed activity within the Act.

Section 36F Rideshare driver must be affiliated with transport booking service

This section provides a strict liability offences for rideshare drivers providing services when they are not affiliated with a transport booking service. The nature of the rideshare model relies on the affiliation of the driver with a transport booking service to support matters and actions relevant to matters of public and driver safety.

Affiliation with more than one transport booking service is permitted. Access to multiple booking services will promote competition by transport booking services to supply drivers.

Penalty provisions are consistent with those for unaccredited or unlicensed activity within the Act.

Division 3.4 Transport booking service—operation

Section 36G Transport booking service—responsibilities

This section provides a strict liability offence for transport booking services when providing booking services to affiliated parties to ensure they are the bona fides of persons to which they are affiliated and the vehicles to be used to provide the service. The offence is limited in that it requires the transport booking service to take reasonable steps. This will permit a defence in instances where the transport booking service is subject to deception on the part of the affiliated party.

The maximum penalty is within the range for strict liability offences.

Section 36H Transport booking services—regulations about operation

Section 36H provides that regulations can make provision about the operation of transport booking services. The examples stated are consistent with a range of matters that may be engaged with the provision of safe, accessible and reliable public transport service. The provisions may also support matters of compliance and enforcement through the keeping of records and access to information by authorities.

The regulatory arrangements are comparable to current requirements for taxi networks, recognising the similarity in the nature of their operations in providing booking and dispatch services.

Section 36I Court may order transport booking service to take certain actions

Section 36I provides that where a court finds a corporation guilty of an offence against sections 32 (transport booking service – must be accredited), 34 (transport booking service – must comply with accreditation conditions) and 36G (transport booking service – responsibilities) that in addition to or instead of any other penalty imposed, the court may order a corporation to take specified actions. These are:

- to publicise the offence, its consequences and penalties imposed;
- to perform specified acts or establish and/or carry out a specified project for the public benefit. In the case of the latter, the project can be unrelated to the offence.

Subsection 36I(3) provides that the court may specify a period within which the order must be completed and may also impose any other requirements that it considers necessary or expedient for enforcement of the order or to make the order effective.

Subsection 36I(4) provides that the total cost to the corporation of compliance with orders under section 49E cannot be more than 6,500 penalty units including any fine imposed for the offence.

Subsections 36I(5) and (6) provide that in making an order under section 36I, the court must take into account, as far as practicable, the severity and extent of consequences from the offence, any actions taken to rectify damage resulting from the offence, financial

circumstances of the corporation and the burden that the order will impose. The court is not prevented, however, from making an order if it has been unable to ascertain the financial circumstances of the corporation.

Subsections 361(7) and 361(8) provide that if a corporation fails, without reasonable excuse, to comply with an order under subsection (2)(a) or (b), the court may on application of the road transport authority, order the director-general to carry out the order and to publicise the failure of the corporation to do so. The director-general must comply with such an order.

Subsection 361(9) provides that an order to the director-general under subsection 361(7) does not prevent contempt of court proceedings against a corporation that has failed to comply with an order under this section.

Subsection 361(10) provides that reasonable costs incurred by the director-general of complying with an order under subsection 361(7) will be a debt owed to the Territory by the corporation.

The opening of the ACT on-demand public passenger service market to greater competition may involve new entrants with significant differences in size, operating arrangements and funding capacity. While similar behaviours to which the court order may apply have to date been effected by fine only offences with local market participants, looking forward these may not be significant enough to provide a behavioural response from corporations with multinational interests. Accordingly, additional capacity to support compliance is to be provided through this section and to permit proportionate action commensurate with a corporation's financial capacity.

No human rights issues are raised by this section as it applies to corporations only.

**Clause 11 Entitlement to operate taxi services
Section 51 (c)**

This clause amends subsection 51(c) of the Act to align entitlements to operate a taxi service with requirements for affiliation unless an independent taxi service operator under section 36E.

Clause 12 Sections 54 and 55

This clause omits sections 54 and 55 of the Act relating to taxi network affiliation and the offence of pretending to be affiliated as they have been superseded requirement for transport booking service affiliation (see sections 36D and 36E).

**Clause 13 Regulations about operation of taxi services by accredited people
Section 56 (a) to (c)**

Subsection 56(a) removes reference to taxi networks and aligns with requirements for transport booking services.

Subsection 56(b) provides for the regulation of taxi services provided by independent taxi service operators. This will provide for the independent taxi operator arrangements to be specified in regulation as provided under the independent taxi operator pilot program.

Clause 14 Section 56 (j)

This clause amends subsection 56(j) to remove reference to taxi networks.

Clause 15 Section 56 (m)

This clause amends subsection 56(j) to replace reference to cleaning of a taxi with the condition of the taxi. In a competitive market, it is not expected that the Government would need to prescribe detail operational matters for taxis.

**Clause 16 Regulations about the operations of taxis
Section 57 (f)**

This clause omits 57(f) which relates to regulations for the maximum speed of a taxi vehicle. The operation of the Australian Road Rules is considered by the Government are to be the most appropriate means to determine public safety and convenience outcomes.

**Clause 17 Regulations about the conduct of taxi passengers
Section 59 (b)**

This clause replaces subsection 59(b) to clarify arrangements regarding the removal of passengers who have failed a direction to leave a taxi to support driver safety outcomes by not inferring it is the duty of a taxi driver to remove a passenger.

Clause 18 Section 60

Section 60 Power to determine taxi fares

This section allows the Minister to determine taxi fares (and their calculation) via a disallowable instrument.

Under subsection 60(3), a fare includes a charge relating to hiring or use of a taxi. This will permit the regulation of charges such as electronic payment surcharges.

The ability to regulate fares or specific components, such as upfront tipping, may support consumer outcomes as the on-demand public passenger services industry transitions with the introduction of new services and business models. The Government's intention is that taxi fares remain subject to a regulated maximum but will be reviewed after one year to consider the impacts of competition in the market.

Clause 19 New part 5A

Part 5A Ridesharing

Division 5A.1 Basic concepts

Section 60A Meaning of *rideshare service, rideshare driver, rideshare and rideshare vehicle*

This section defines rideshare activity as a public passenger service distinct from those of taxis and hire cars. Rideshare involves different models of service, including the use of vehicles whose primary purpose may not be for rideshare activity and relationships between parties.

Rideshare may involve the use of a vehicle for public passenger services outside of its primary use (for example, use as private family transport). A rideshare driver may also be a person other than the registered owner of the vehicle to be used for rideshare services. Accordingly, the operation of rideshare service needs to be defined against the activity.

Division 5A.2 Rideshare drivers

Subdivision 5A.2.1 Rideshare drivers—accreditation

Section 60B Rideshare driver—purposes of accreditation

Section 60B sets out the intention of accrediting rideshare drivers to address matters of public safety and capacity to provide services. These requirements are consistent with requirements applicable to taxis and hire cars.

Section 60C Rideshare driver—regulations about accreditation system

This clause inserts a new section to permit the specification of the system for accreditation in regulation, including any conditions, actions, orders for payment and other requirements. The arrangements for the accreditation system for rideshare are comparable to that for other on-demand public transport providers, that is taxis and hire cars.

Section 60D Entitlement to operate rideshare services

This section entitles accredited rideshare drivers to operate a rideshare service in the ACT (or part thereof) subject to their affiliation with a transport booking service. This recognises that principal features and functions of rideshare are derived from services provided by the transport booking service including, for example, the booking platform and fare structure.

Section 60E Rideshare driver must be accredited

This section provides for a strict liability offence if a rideshare driver provides services when unaccredited. Rideshare, as with other public passengers services, is a regulated activity.

Subsection 60E(2) recognises the potential for cross-border operation of rideshare services. The penalties are consistent with those for similar offences applying to existing taxi and hire car drivers in the Act and will support compliance with the regulatory framework.

Section 60F Pretend to be accredited rideshare driver

Section 60F provides for a strict liability offence if a person pretends to be an accredited rideshare driver. This offence allows for remedial action circumstances prior to the

provision of a rideshare service. The penalties are consistent with those for similar offences applying to existing taxi and hire car drivers in the Act.

Subdivision 5A.2.2 Rideshare drivers—regulation

Section 60G Regulations about operation of rideshare service

This section provides a strict liability offence for a rideshare driver using a vehicle that is not licensed for rideshare. Licensing of rideshare vehicles supports community safety outcomes. The penalty is consistent with those for similar offences and will support compliance with the regulatory framework.

Subsection 60G(2) allows for the potential operation of cross-border rideshare services by excluding rideshare vehicles licensed in another jurisdiction completing a service in the ACT from the offence.

Section 60H Regulations about operation of rideshare service

Section 60H provides for the making of regulations about the operation of rideshare services. The examples provided indicate a range of matters that are currently recognised for other public passenger services that affect public safety, consumer outcomes and the administration and compliance with the regulatory system. The regulatory provisions are comparable to those available for the regulation of the operation of taxi and hire car services.

Section 60I Regulations about rideshare drivers

This section provides for the making of regulations about rideshare drivers, including duties and requirements that will promote the quality of service and safety of consumers, the public and drivers. The regulatory provisions are comparable to those available for the regulation of drivers of taxi and hire car services.

Division 5A.3 Rideshare vehicles

Section 60J Meaning of *rideshare vehicle licence*

Section 60J defines a rideshare vehicle licence as the means to authorise a vehicle's use for rideshare. Rideshare vehicles may include vehicles whose primary purpose is not for public passenger services. The licensing of vehicles will permit actions to support public safety, such as requirements regarding insurance and authorised roadworthiness inspections.

Section 60K Rideshare vehicle licence not transferable

This section prohibits the transfer of a rideshare vehicle licence. The authority for a vehicle to be used for rideshare services will not be tradeable.

Section 60L Pretend vehicle is licensed rideshare vehicle

This clause inserts a new strict liability offence for a person pretending that a vehicle is licensed for rideshare when it is not. Licensing of the vehicle supports public confidence in the safety of vehicles used for rideshare. The maximum penalty is consistent with similar offences involving taxis and hire cars, sections 43 and 70 of the Act respectively.

Section 60M Licensed rideshare vehicle not to be used by unlicensed or unaccredited driver

The section provides a new strict liability offence if the operator of a licensed rideshare vehicle provides the vehicle for the purpose of rideshare to a person who is not licensed to drive a rideshare vehicle.

As licensed rideshare vehicles may not be primarily used for rideshare, the operator has an obligation to ensure that provision of the vehicle for rideshare purpose is by appropriately licensed persons. However, this obligation is limited by reasonable actions. An offence would not be expected to arise in circumstances, such as where a rideshare vehicle licensee is deliberately deceived by an unaccredited rideshare driver.

The maximum penalty of 50 penalty units recognises the potential for public harm if services are provided by unlicensed rideshare drivers.

Section 60N Licensed rideshare vehicle not to be used unless insured

This section provides a new strict liability offence if a rideshare vehicle licensee permits the use of a licensed rideshare vehicle for rideshare, without taking reasonable steps to ensure appropriate insurance arrangements are in place. The insurance arrangements under rideshare may vary – ranging from being directly related to the vehicle or being related the rideshare driver and contractual arrangements with a transport booking service or insurer.

The maximum penalty of 50 penalty units recognises the potential harm to the public if there is an incident and appropriate insurance arrangements are not in effect.

Section 60O Regulations about rideshare vehicles

This clause inserts a new section for the making of regulations regarding the licensing of vehicles for rideshare. This includes the regulations involving administration and compliance with the system and the operation of vehicles to support public safety and accessibility and consumer confidence. The provisions for a system of licensing are consistent with those for taxis and hire cars.

Division 5A.4 Rideshare passengers and fares

Section 60P Regulations about conduct of rideshare vehicle passengers

This section inserts a new section to permit the making of regulations regarding the conduct of rideshare passengers. With public passenger services there may be occasions to require particular actions by passengers to support driver and public safety, and the effective provision of services. Similar provisions apply with respect to taxi and hire car vehicles.

Section 60Q Power to determine rideshare fares

This clause inserts a new section to allow the Minister to determine rideshare fares (and their calculation) via a disallowable instrument. Under subsection 60S(3), fare includes a charge relating to ridesharing.

The ability to regulate fares or specific components, such as surge pricing, may support consumer outcomes as the on-demand public passenger services industry transitions with

the introduction of new services and business models. The Government's intention is that in a competitive environment fares for ridesharing remain unregulated except in specific circumstances.

Clause 20 **Meaning of *hire car***
Section 67

This clause amends the definition of hire car under section 67 of the Act as related action to defining rideshare vehicle under section 60J.

Clause 21 **Meaning of *restricted hire car***
Section 68

This clause amends the definition of restricted hire car under section 68 of the Act as related action to defining rideshare vehicle under section 60J.

Clause 22 **Regulations about the operation of hire cars**
Section 77 (f)

This clause omits 77(f) which relates to regulations for the maximum speed of a hire car. The operation of the Australian Road Rules is considered by the Government are to be the most appropriate means to determine public safety and convenience outcomes.

Clause 23 **Section 79**

Section 79 **Regulations about the conduct of hire car passengers**

This clause replaces subsection 79 to clarify arrangements regarding the removal of passengers who have failed a direction to leave a hire car to support driver safety outcomes by not inferring it is the duty of a hire car driver to remove a passenger.

Clause 24 **New section 79A**

Section 79A **Power to determine hire car fares**

This clause inserts a new section to allow the Minister to determine fares (and their calculation) via a disallowable instrument. Under 79A(4) a fare includes a charge relating to hiring the hire car.

The Government's intention for hire cars fares is that they generally remain subject to negotiation. The ability to regulate fares or specific components may support consumer outcomes as the on-demand public passenger services industry transitions with the introduction of new services and business models. In particular, the potential for hire car service operators to engage with transport booking services may raise the opportunity for surge pricing or other strategies to impact on consumer outcomes.

Clause 25 **Section 110 heading**

This clause makes a technical amendment to the heading of section 110.

Section 26 **Definitions—pt 8A**
Section 110

This clause amends section 110 of the Act to effect a technical amendment to clarify the operation of Part 8A of the Act.

Clause 27 **Purpose of powers under pt 9**
Section 115 (a)

This clause amends section 115 of the Act, to include rideshare vehicle licence in the example of compliance with the Act that the road transport authority, a police officer or authorised person may exercise enforcement powers, over.

Clause 28 **Power to require vehicles or equipment to be inspected and tested**
Section 119 (5), new definition of *equipment*

This clause amends section 119 to insert a new definition of equipment for bookable vehicles (defined as taxis, hire cars and rideshare vehicles under section 29 of the Act under amendments in this Bill). Equipment for these types of services may not relate to dedicated equipment and fittings of the vehicle, but could include alternate communication means such as a smartphone which is the property of the driver.

Clause 29 **Unauthorised public passenger services**
Section 125 (2), note 1

This clause amends section 125 of the Act to include rideshare within the example of persons entitled to operate public passenger services, and separately list the entitlements for bus services under sections 18 and 19 of the Act.

Clause 30 **New section 130**

Section 130 **Transitional regulations**

This clause inserts a new section to enable the Executive to make regulations dealing with transitional matters.

The section contains two different regulation making powers.

Section 130(1) enables the making of a regulation to deal with any transitional matter that arises as a result of the enactment of the Bill. However, the scope of the regulation must be confined to the same sphere of operation as the amended Act, be strictly ancillary to the operation of the Act and not widen the Act's purpose.

Section 130(2) enables the making of a regulation that modifies the Act. A regulation under this section may only modify part 11 of the Act, and only if the Executive is of the opinion that the part does not adequately or appropriately deal with a transitional issue. A provision of this kind is an important mechanism for achieving the proper objectives,

managing the effective operation, and eliminating transitional flaws in the application of the Act in unforeseen circumstances by allowing for flexible and responsive (but limited) modification by regulation.

Section 130(3) gives a regulation under section 130 (2) full effect according to its terms. A provision of part 11 of the Act modified by regulation will operate in the same way (in relation to another provision of the Act or any other territory law) as if it were amended by an Act, and in accordance with established principles of statutory interpretation. The section is not expressed, and does not intend, to authorise the making of a regulation limiting *future* enactments of the Legislative Assembly. Also, any modification by regulation of part 11 of the Act has no ongoing effect after the expiry of that part.

Under subsection 130(4) the operation of transitional regulation making powers cease one year after the day it commences. This reflects the intended temporary operation of section 130 and its availability to address immediate matters as industry transitions.

Clause 31	Dictionary, new definitions
Clause 32	Dictionary, definition of <i>accredited taxi network provider</i>
Clause 33	Dictionary, new definition of <i>accredited transport booking service</i>
Clause 34	Dictionary, definition of <i>affiliated</i>
Clause 35	Dictionary, new definitions
Clause 36	Dictionary, definition of <i>public passenger vehicle</i>
Clause 37	Dictionary, new definitions
Clause 38	Dictionary, definitions of <i>taxi booking service and taxi network</i>
Clause 39	Dictionary, new definition of <i>transport booking service</i>

These clauses make technical amendments to the definitions within the Dictionary to the Act to omit, revise, define and reference terms related to amendments in the Bill that provide for the operation and regulation of transport booking services and rideshare.

Schedule 1 Consequential Amendments

Part 1.1	Domestic Animals Act 2000
[1.1]	Dictionary, definition of <i>public place</i>, note

This clause makes a technical amendment to a note describing a public passenger vehicle under the *Domestic Animals Act 2000* to include a rideshare vehicle.

Part 1.2	Road Transport (Driver Licensing) Act 1999
[1.2]	Dictionary, definition of <i>public vehicle</i>, note

This clause makes a technical amendment to a note describing a public passenger vehicle under the *Road Transport (Driver Licensing) Act 1999* to include a rideshare vehicle.

Part 1.3	Workers Compensation Act 1951
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[1.3] New section 11 (2) (c)

The clause inserts a new paragraph in subsection 11(2) which will permit regulations to specify an individual to be a worker for workers' compensation purposes, even if not engaged on a regular or systematic basis.

The Government intends that regulations provide for bookable vehicle (taxi, hire car or rideshare) drivers operating under bailment agreements to be considered workers for workers' compensation purposes. This provides clarity for drivers' access to workers' compensation and is consistent with the operation of workers compensation provisions in other Australian jurisdictions (but not all).

Further, drivers under affiliated driver agreements (between a transport booking services and driver) that limit a driver's ability to use multiple transport booking services would also be considered workers for workers' compensation purposes.

[1.4] Section 11 (2) (c), examples 4 and 10

This clause amends section 11 to omit examples of drivers used for determining who is a worker.