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

**ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) (EXEMPTIONS)
AMENDMENT REGULATION 2015 (No 1)**

SL2015-34

EXPLANATORY STATEMENT

Circulated by the authority of
Andrew Barr MLA
Chief Minister

ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) (EXEMPTIONS) AMENDMENT REGULATION 2015 (No 1)

This Regulation amends the Road Transport (Public Passenger Services) Regulation 2002. This Regulation also amends the Road Transport (Third-Party Insurance) Regulation 2008.

Overview

The amendments in this Regulation permit the operation of rideshare and third-party booking services for taxis in the ACT.

These platforms will provide an extension of the on-demand public transport market in the Territory. They represent new and innovative technologies and business models which can provide alternate means of access to passenger transport services.

Rideshare involves the use of private motor vehicles for-profit or reward, where drivers contract with a third-party booking service. Third-party booking services can also operate for existing taxis and hire cars.

The amendments provide temporary and conditional exemptions from offences under the *Road Transport (Public Passenger Services) Act 2001* (the Act) for rideshare operators and drivers to provide rideshare public passenger services subject to specified operational requirements. These include affiliation with a rideshare booking service that has entered into an agreement with the Territory regarding their operation. Provisions for the safe and effective provision of public passenger transport services are the focus of these arrangements.

The Regulation provides clear obligations on interim rideshare booking services – the entities undertaking booking and dispatch services – and for affiliated interim rideshare drivers and operators addressing a range of public safety aspects. These include ensuring the character and capacity of service providers and their vehicles to deliver safe and reliable transport services to ACT passengers. It also includes prohibitions on rideshare drivers soliciting work off the street, and undertaking cash transactions.

In the event that an incident does occur, passengers and members of the public will be protected with appropriate insurance coverage. This includes specific arrangements to allow for existing compulsory third-party (CTP) insurance arrangements to operate during the interim period, and further requirements for third-party property insurance to be in force. Rideshare drivers will be encouraged to ensure insurance coverage arrangements are in place.

There are further requirements to promote consumer interests and their ability to have their complaints heard.

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.

Access Canberra supervision and the agreement to arrangements will be required for the rideshare booking service and affiliated drivers and vehicles to operate.

Third-party booking services for taxis will be permitted to operate by a conditional exemption requiring notification to the road transport authority. The Government considers that safety aspects related to the provision of services are effectively dealt with by existing requirements for taxi vehicles, operators and drivers. Wheelchair accessible taxi (WAT) bookings will continue to operator only through the WAT centralised booking service (WCBS).

Booking services for hire cars are not currently regulated and therefore do not require an exemption.

These measures represent actions for stage one of the Government's taxi industry innovation reforms. The reforms also include fee reductions for existing taxi and hire car service providers that will be executed by a determination under section 96 of the *Road Transport (General) Act 1999*. Stage two reforms will involve comprehensive legislative amendments to provide a regulatory framework for the licensing and accreditation of new entrants.

Period of effect

The amendments are to have effect until such time as further regulation amendments are executed in conjunction with stage two legislative amendment reforms.

Regulatory impact

These amendments comprise part of a broader set of taxi industry innovation reforms. 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).

Human rights

There are no human rights implications from the amendments made by this Regulation.

Clause Notes

Clause 1 Name of Regulation

This Act is the *Road Transport (Public Passenger Services) (Exemptions) Amendment Regulation 2015 (No 1)*.

Clause 2 Commencement

This Regulation commences on the day after it is notified.

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 legislation made in the schedules to this Regulation, including:

- *Road Transport (Public Passenger Services) Regulation 2002*
- *Road Transport (Third-Party Insurance) Regulation 2008*.

Road Transport (Public Passenger Services) Regulation 2002

Clause 4 New part 4.1A

Part 4.1A Independent taxi booking services

Section 81 Meaning of independent taxi booking service

This section defines independent taxi booking services to recognise third-party providers of taxi booking services excluding accredited taxi networks.

Section 81A Exemption for independent taxi booking service – Act, s128 (1) (a)

This section provides a conditional exemption for independent taxi booking services from section 33 of the Act (operating a taxi network without entitlement).

Subsection 82(2) prescribes the conditions for the exemption which include notification of the independent taxi booking service's operation and ensuring bookings are only provided to taxi drivers and vehicles. Use of existing taxis supports safety as, for example, drivers are subject to training and identification requirements, and vehicles are subject to requirements for their operation including insurance arrangements and the use security cameras.

Independent taxi booking services are required to adhere to regulated maximum taxi fares under section 60 of the Act, as a required consumer outcome. Further they are required to refer bookings for WATs to the WCBS, consistent with existing arrangements to support the accessibility of transport services.

Independent taxi booking services are required to maintain records of services and provide details to relevant authorities as required.

Clause 5 New chapter 4A

Chapter 4A Ridesharing

Part 4A.1 Preliminary

Section 164A Object – ch 4A

Section 164A outlines the intended temporary operation of the amendment regulations to support stage one reforms for the operation of rideshare. Cessation of the provision will be performed by further regulation amendments.

Section 164B Definitions – ch 4A

This clause inserts a range of related definitions to support the operation of temporary provisions to permit rideshare.

Section 164C Meaning of rideshare service, rideshare driver, rideshare and rideshare vehicle – ch 4A

Section 164C defines rideshare activity by recognising the relationship and communication of bookings between a rideshare booking service and a driver. Rideshare excludes services provided by buses, taxis, hire cars and demand responsive services.

Public passenger services provided by taxis, hire cars and demand responsive services are excluded from the definition of rideshare.

Section 164D Meaning of rideshare booking service – ch 4A

This section defines a rideshare booking service by its operation as a conduit to provide passenger bookings to drivers as a third-party. It does not include drivers receiving bookings directly from passengers.

Part 4A.2 Interim rideshare booking services

Section 164E Meaning of interim rideshare booking service – ch 4A

Under the definition of interim rideshare booking service provided by section 16E the operation of such services will require an agreement to be in place with the Territory. Required provisions for the agreement are specified in section 164F.

Section 164F Meaning of interim rideshare booking service agreement – ch 4A

The specified inclusion of provisions within an interim rideshare booking service agreement under section 164F address a range of public safety, consumer and compliance requirements including:

- that interim rideshare booking services are affiliating with drivers that are:
 - competent holding a full drivers licence
 - legally permitted to provide services under immigration law, and
 - suitable in that they do not represent an unacceptable risk to passengers and the public (including consideration of criminal and driving behaviour and medical fitness);
- the roadworthiness of affiliated vehicles;

- insurance requirements – with specified requirements for third-party property insurance, and CTP insurance requirements effected through interim rideshare vehicle requirements for current registration and consequential amendments;
- pricing strategies and fare arrangements operated by interim rideshare booking services, such as the use of surge pricing during declared states of alert or emergency;
- complaints mechanism; and
- record keeping and providing information.

These conditions apply regardless of whether the driver is a contractor or employee. The operational requirements supporting the provision of exemptions for drivers and operators are detailed under sections 164J and 164K respectively.

Part 4A.3 Interim ridesharing arrangements

Section 164G Meaning of interim rideshare driver

Section 164G defines interim rideshare drivers with respect to their affiliation with a rideshare booking service via an agreement, as provided under section 164H.

Section 164H Meaning of interim rideshare driver agreement and interim rideshare vehicle

This section defines an interim rideshare driver agreement as between a rideshare driver and an interim rideshare booking service and involving the provision of services by a stated vehicle.

Section 164I When is a rideshare driver operating a rideshare service?

Section 164I defines the operation of a rideshare service by a when driver is carrying out a rideshare.

Section 164J Exemption for interim rideshare drivers – Act, s 128(1)(a)

The section provides a conditional exemption for interim rideshare drivers with respect to offences under the Act relating to section 64 (use of vehicles as hire cars), section 74 (unaccredited operators not to operate hire car services) and section 125 (unauthorised public passenger services). An exemption for offences relating to taxis services under Part 5 of the Act is not required as rideshare does not involve taxis, where a vehicle stands or plies for hire for the transport of passengers along a road or road related area (section 45 of the Act).

Drivers will need to hold a full drivers licence and meet appropriate standards for public safety in terms of suitability regarding criminal and driving records. Where appropriate drivers must be permitted to work under immigration requirements (section 164J(2)(a) and (b)).

The previous driving history of interim rideshare drivers is considered under 164J(2)(c) with persons with recent disqualifications from driving not permitted to drive rideshare (infringement and fine defaults are excepted).

The suitability of interim rideshare drivers is also taken into account under 164J(2)(d) which intends to include prescribed arrangements and requirements for national police checks for criminal behaviour in the interim rideshare booking services agreement.

Section 164J(2)(e) addresses potential risks associated with the medical fitness of drivers with reference to national standards.

Drivers are required to ensure the roadworthiness of the rideshare vehicle given that, under the rideshare business model, drivers will be the parties contracting with booking services (section 164J(2)(f)). Vehicle operators are also subject to similar requirements as they are the registered owner of the vehicle (section 164K(2)).

CTP insurance arrangements operate due to the requirements for registration of the vehicle under section 164J(2)(f)(i) (and consequential amendments to the Road Transport (Third-Party Insurance) Regulation 2008. Third-party property insurance requirements are specified under section 164J(2)(g).

Drivers will also be required to provide services subject to zero blood alcohol and drug requirements (section 164J(2)(h)).

Exemption from regulations relating to the provision of taxi services for drivers and operators is not required as rideshare services are pre-booked services and do not involve rank and off-street hail services (section 164J(2)(h)).

Cash payments for rideshare services will not be permitted during the interim rideshare period (given the additional risk posed to drivers from holding sums of cash within the vehicle without additional safety measures (section 164J(2)(j)).

As for booking services under section 164F(h), drivers will not be permitted to apply surge and jump-the-queue pricing strategies during emergency situations (section 164J(2)(k)).

For drivers, administration of record keeping requirements under section 164J(2)(l) can be undertaken by the rideshare booking service. In recording details to support privacy outcomes for the passenger the driver need only record an identifier for the booking.

The exemption remains in operation for so long as the specified conditions are met.

Section 164K Exemption for registered operators of interim rideshare vehicles – Act, s 128(1)(a)

Section 164K ensures the registered operator of the vehicle to be used for rideshare is not subject to offences under the Act, where the vehicle as meeting the applicable vehicle standards and has been certified by an authorised examiner at a vehicle inspection station.

The exemption remains in operation for so long as the specified conditions are met.

Clause 6 Dictionary, new definitions

This clause inserts a range of related definitions by reference to support the operation of temporary provisions to permit rideshare.

Schedule 1 Consequential amendments

Part 1.1 Road Transport (Third-Party Insurance) Regulation 2008

[1.1] New section 13

This clause inserts a new section to permit rideshare vehicles to operate for an interim period without requiring a change to the existing CTP insurance premium class from a passenger vehicle. Hire cars or taxis operating as rideshare vehicles will continue to pay the higher premium that applies to their vehicle class. The Minister will notify the end of the interim period which is anticipated to be on or around 31 March 2016 (the 'effective date').

After the effective date, rideshare vehicles will need to pay the rideshare CTP insurance premium or, in the case of taxis and hire cars, the higher applicable taxi or hire car premium.

[1.2] Schedule 1, part 1.1, section 1.1, definition of bus, new paragraph (e)

[1.3] Schedule 1, part 1.1, section 1.1, definition of passenger vehicle, new paragraph (ga)

[1.4] Schedule 1, part 1.1, section 1.1, new definition of rideshare vehicle

[1.6] Dictionary, new definition of rideshare vehicle

These clauses define rideshare vehicle for the interim arrangements.

[1.5] Schedule 1, part 1.2, new item 14A

This clause establishes a new rideshare vehicle CTP insurance premium class. The establishment of the new class will require ACT insurers to file annual premiums for rideshare vehicles for approval by the CTP regulator under Division 2.6.1 of the Act (Approval of CTP premiums), and consistent with the Premium Guidelines which outline how the premiums are to be calculated; for which CTP premium classes; and how much can be charged.