



Australian Capital Territory

Road Transport (Public Passenger Services) Amendment Act 2006

A2006-9

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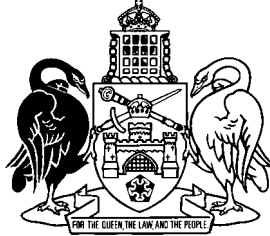
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Australian Capital Territory

Road Transport (Public Passenger Services) Amendment Act 2006

A2006-9

*An Act to amend the *Road Transport (Public Passenger Services) Act 2001**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2005-215

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Road Transport (Public Passenger Services) Amendment Act 2006*.

2 Commencement

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

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 Legislation amended

This Act amends the *Road Transport (Public Passenger Services) Act 2001*.

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

substitute

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 64 (Use of vehicles as hire cars)
- s 65 (Pretending vehicles are licensed hire cars)
- s 74 (Unaccredited operators not to operate hire car services)
- s 75 (Pretending to be an accredited hire car service operator)
- s 85 (Use of vehicles for demand responsive services)

- s 86 (Pretending vehicle is demand responsive service vehicle)
- s 91 (Operating demand responsive service without entitlement)
- s 92 (Pretending to be entitled to operate demand responsive service)
- s 125 (Unauthorised public passenger services).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

5 Functions of road transport authority New section 5 (ba)

insert

- (ba) to administer demand responsive service authorisations given under this Act; and

6 New section 5 (ca)

insert

- (ca) to keep a register of demand responsive service authorisations given under this Act; and

7 Section 5 (d)

after

licensed people

insert

, and authorised demand responsive service operators,

8 Section 6 heading

substitute

6 Registers of accredited people, demand responsive service authorisations and licences

9 Section 6 (1)

substitute

- (1) A register under this Act may include information given to the road transport authority or the Minister under this Act and any other information the authority considers appropriate.

Note Section 5 (c) and (ca) requires registers for the following to be kept:

- accredited bus service operators
- accredited demand responsive service operators
- accredited hire car operators
- accredited taxi network providers
- accredited taxi service operators
- demand responsive service authorisations
- hire car licences
- restricted hire car licences
- restricted taxi licences
- taxi licences.

**10 Security and disclosure of information in registers
Section 7**

omit

register of accreditations or licences

substitute

register under this Act

11 Section 9

substitute

9 Combinations of accreditations, authorisations and licences

This Act does not prevent a person from holding any combination of accreditations, authorisations and licences under this Act.

12 Section 11

substitute

11 Meaning of *bus service*

A *bus service* is a public passenger service (other than a demand responsive service) operated using buses.

13 Section 17 heading

substitute

17 Service contracts—regular route services

**14 Meaning of *taxi*
Section 45**

omit

(other than a bus)

substitute

(other than a bus or demand responsive service vehicle)

15 **Meaning of *restricted taxi***
Section 46

omit

(other than a bus)

substitute

(other than a bus or demand responsive service vehicle)

16 **Meaning of *hire car***
Section 67

omit

(other than a bus or taxi)

substitute

(other than a bus, taxi or demand responsive service vehicle)

17 **Meaning of *restricted hire car***
Section 68

omit

(other than a bus or taxi)

substitute

(other than a bus, taxi or demand responsive service vehicle)

18 Part 8*substitute***Part 8 Demand responsive services****Division 8.1 Basic concepts****80 Meaning of *demand responsive service***

A *demand responsive service* is a public passenger service that a person may operate under an authorisation given for this part.

81 Meaning of *demand responsive service vehicle*

A *demand responsive service vehicle* is a motor vehicle used, in accordance with a demand responsive service authorisation, to operate the demand responsive service.

Division 8.2 Authorisations to operate demand responsive services**82 Demand responsive service authorisations**

- (1) The Minister must have regard to the guidelines approved under section 83 in deciding whether to give a person an authorisation to operate a demand responsive service.
- (2) A demand responsive service authorisation may exempt a person or vehicle from this Act (or a stated provision of this Act).

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

- (3) An authorisation is a disallowable instrument.

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

83 Demand responsive services—guidelines for giving authorisations

- (1) The Minister may approve guidelines for the giving of authorisations to operate demand responsive services.
- (2) The guidelines may make provision in relation to—
 - (a) the kinds of public passenger services that may be operated under demand responsive service authorisations, including, for example, matters in relation to—
 - (i) hours of operation; and
 - (ii) routes and areas of operation; and
 - (iii) kinds of passengers that may be transported; and
 - (iv) accessing of services by passengers; and
 - (b) the kinds of vehicles that may be used to operate demand responsive services.

Note An example is part of the Act, 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) The guidelines must provide that the Minister must not give a person an authorisation for a demand responsive service if the operation of the service will have an adverse impact on the viability of an existing regular route service.
- (4) Approved guidelines are a disallowable instrument.

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

84 Demand responsive services—regulations about authorisations

A regulation may make provision in relation to authorisations to operate demand responsive services, including, for example—

- (a) the term of authorisations; and
- (b) the conditions of authorisations; and
- (c) matters relating to the giving, refusal or surrender of an authorisation; and
- (d) the action that may be taken in relation to an authorised demand responsive service operator in circumstances prescribed by regulation, including—
 - (i) the suspension or cancellation of an authorisation; and
 - (ii) the imposition of a condition on, or the amendment of a condition of, an authorisation; and
 - (iii) an order that an authorised demand responsive service operator pay to the Territory an amount of not more than—
 - (A) for an individual—\$5 000; or
 - (B) for a corporation—\$25 000; and
 - (iv) the reprimanding of an authorised demand responsive service operator.

Note An example is part of the Act, 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).

85 Use of vehicles for demand responsive services

- (1) An authorised demand responsive service operator commits an offence if—
 - (a) the operator uses a vehicle to operate a demand responsive service; and
 - (b) the operator is not authorised by the demand responsive service authorisation for the service to use the vehicle to operate the service.

Maximum penalty: 50 penalty units.

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

86 Representing vehicle as demand responsive service vehicle

- (1) A person commits an offence if—
 - (a) the person represents a vehicle to be a demand responsive service vehicle; and
 - (b) the person is reckless about whether the person's conduct represents the vehicle to be a demand responsive service vehicle; and
 - (c) the vehicle is not a demand responsive service vehicle.

Maximum penalty: 30 penalty units.

- (2) Strict liability applies to subsection (1) (c).

Division 8.3 Accreditation of demand responsive service operators**87 Demand responsive service operators—purposes of accreditation**

The purpose of accreditation under a regulation to operate a demand responsive service is to ensure that—

- (a) the accredited person has the financial capacity to meet the service standards for the service; and
- (b) the accredited person, and each person who is concerned with, or takes part in, the management of the service, are suitable people to operate the service; and
- (c) the accredited person, and each person who is concerned with, or takes part in, the management of the service, have demonstrated the capacity to comply with the relevant regulations and, in particular, regulations about—
 - (i) the safety of passengers and the public; and
 - (ii) the maintenance of demand responsive service vehicles.

88 Demand responsive service operators—regulations about accreditation system

- (1) A regulation may provide a system for the accreditation of people to operate demand responsive services, including, for example—
 - (a) the kinds of accreditations; and
 - (b) the conditions of accreditations; and
 - (c) matters relating to the giving, refusal or surrender of accreditations; and
 - (d) the action that may be taken in relation to an accredited person in circumstances prescribed by regulation, including—

- (i) the suspension or cancellation of an accreditation; and
- (ii) the imposition of a condition on, or the amendment of a condition of, an accreditation; and
- (iii) an order that an accredited person pay to the Territory an amount of not more than—
 - (A) for an individual—\$5 000; or
 - (B) for a corporation—\$25 000; and
- (iv) the reprimanding of an accredited person.

Note An example is part of the Act, 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).

- (2) A regulation may make provision in relation to the accreditation of people to operate demand responsive services, including, for example—
 - (a) requirements about the suitability of the applicant and each person who will be concerned with, or take part in, the management of the service; and
 - (b) capacity to meet service standards; and
 - (c) financial viability.

Division 8.4 Service contracts for demand responsive services

89 Service contracts—demand responsive services

- (1) The road transport authority may, on behalf of the Territory, enter into a contract (a *service contract*) for the operation of a demand responsive service with an authorised demand responsive service operator.

- (2) A service contract must state whether the right given under the contract to operate a demand responsive service is an exclusive right to operate a demand responsive service, or a demand responsive service operated in a particular way, along a particular route or in a particular area.
- (3) A service contract may make provision in relation to the operation of a demand responsive service and the administration of the contract, including, for example—
- (a) service requirements under the contract; and
 - (b) the availability and use of booking services for the service; and
 - (c) the transfer, suspension, cancellation and surrender of the contract; and
 - (d) the fees (if any) payable under the contract; and
 - (e) the adjustment of payments and refunds in relation to any contract fees; and
 - (f) financial or other penalties for breaches of the contract; and
 - (g) the records (including accounts) to be made and kept, how they are to be made and kept, and their inspection; and
 - (h) the provision of information and reports to the road transport authority about the demand responsive service and the verification of the information and reports; and
 - (i) the publication and the collection of fares payable by passengers; and
 - (j) the sale of tickets and the conditions under which tickets must be sold.
 - (k) free or reduced fares for travel; and

- (l) the issue and acceptance of free or concession passes.

Note An example is part of the Act, 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).

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

Division 8.5 Entitlement to operate demand responsive services

90 Entitlement to operate demand responsive services

A person is entitled to operate a demand responsive service, in or partly in the ACT, if the person—

- (a) holds an authorisation to operate the service; and
- (b) holds a service contract for the service; and
- (c) is an accredited demand responsive service operator.

91 Operating demand responsive service without entitlement

- (1) A person commits an offence if—
 - (a) the person operates, in or partly in the ACT, a demand responsive service; and
 - (b) the person is not entitled under section 90 to operate the service.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) However, section 90 (b) does not apply in relation to the person if—
 - (a) a demand responsive service is discontinued because of a variation or termination of a service contract; and

- (b) the road transport authority has made arrangements with the person, to operate a temporary demand responsive service without a service contract, to replace the discontinued service.

92 Representing entitlement to operate demand responsive service

- (1) A person commits an offence if—
 - (a) the person represents that the person is entitled to operate a demand responsive service; and
 - (b) the person is reckless about whether the person's conduct represents that the person is entitled to operate a demand responsive service; and
 - (c) the person is not entitled to operate a demand responsive service.

Maximum penalty: 30 penalty units.

- (2) Strict liability applies to subsection (1) (c).

Note For the entitlement of a person to operate a demand responsive service, see s 90.

Division 8.6 Regulation of demand responsive services

93 Demand responsive services—minimum fares

- (1) The Minister must determine minimum fares, or ways of calculating minimum fares, payable by passengers for a demand responsive service.
- (2) A determination is a disallowable instrument.

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

94 Regulations about operation of demand responsive services

A regulation may make provision in relation to the operation of demand responsive services by authorised demand responsive service operators, including, for example—

- (a) the conduct of demand responsive services, including, for example—
 - (i) the supervision and monitoring of drivers of demand responsive service vehicles for compliance with the service standards and the responsibilities of the operator in relation to a failure to comply with the standards; and
 - (ii) the safety of passengers (including, for example, by the use of particular kinds of security devices) and the public; and
 - (iii) the qualifications, training and experience of demand responsive service vehicle drivers and other people providing services on behalf of authorised demand responsive service operators; and
 - (iv) maximum driving times and minimum rest times of demand responsive service vehicle drivers; and
 - (v) insurance; and
 - (vi) if appropriate, the issue of tickets; and
 - (vii) customer complaints and inquiries; and
 - (viii) lost property; and
- (b) the preparation and publication of service information for demand responsive services, including timetables (if any) and compliance with any timetables; and

-
- (c) the obligations of drivers of demand responsive service vehicles and other people providing services on behalf of authorised demand responsive service operators; and
 - (d) the requirements that demand responsive service vehicles, and their equipment and fittings (internal and external), must comply with; and
 - (e) the maintenance and cleaning of demand responsive service vehicles; and
 - (f) maintenance, parking and other facilities for demand responsive service vehicles; and
 - (g) the making and keeping of records and their inspection; and
 - (h) the auditing of records and systems; and
 - (i) requirements for display of authorisation numbers on advertisements for the service; and
 - (j) the provision of information and reports to the road transport authority.

Note An example is part of the Act, 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).

95 Regulations about operation of demand responsive service vehicles

A regulation may make provision in relation to the operation of demand responsive service vehicles, including, for example—

- (a) the use of demand responsive services by people, including the payment of fares; and
- (b) the regulation or prohibition of the use of demand responsive service vehicles on certain roads or road related areas; and

- (c) the picking-up and dropping-off of passengers and other matters relating to the transport of passengers; and
- (d) the records to be made and kept, how they are to be made and kept, and their inspection; and
- (e) the transport of passengers' luggage or other goods, and animals; and
- (f) if the demand responsive service vehicle is a bus—the regulation or prohibition of the transport of passengers standing in or on any part of the vehicle; and
- (g) the maximum speed of demand responsive service vehicles; and
- (h) the solicitation of passengers; and
- (i) the payment of fares; and
- (j) the design, equipment and fittings (internal or external) of demand responsive service vehicles; and
- (k) the use of bus, minibus, loading and taxi zones; and
- (l) the regulation or prohibition of notices, signs, and advertisements inside or on the outside of demand responsive service vehicles; and
- (m) the use of decal signs and livery for demand responsive service vehicles; and
- (n) approval of uniforms or industry codes of practice for dress standards.

Note An example is part of the Act, 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).

96 Regulations about demand responsive service vehicle drivers

A regulation may make provision in relation to drivers of demand responsive service vehicles, including, for example—

- (a) the powers, duties and conduct of drivers; and
- (b) the training of drivers; and
- (c) how drivers must dress.

Note An example is part of the Act, 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).

97 Regulations about conduct of demand responsive vehicle passengers

A regulation may make provision in relation to the conduct of passengers being carried by demand responsive service vehicles, including, for example—

- (a) the regulation or prohibition of eating and drinking; and
- (b) the authority of demand responsive service vehicle drivers, police officers and authorised people to direct people contravening a regulation to leave a demand responsive service vehicle and to remove them if they fail to leave.

Note An example is part of the Act, 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).

Part 9 Miscellaneous

125 Unauthorised public passenger services

- (1) A person must not use a vehicle for the transport of passengers for a fare or other consideration along a road or road related area.

Maximum penalty: 50 penalty units.

- (2) This section does not apply to the person if—
- (a) the monetary or other consideration receivable by the person is not more than the cost of operating the vehicle to transport the passengers; or
 - (b) the person is entitled under this Act to operate the public passenger service being operated by the person.

Examples for par (a)

- 1 A car pool in which participants share the costs of operating the vehicle for the car pool.
- 2 Helen is a member of Bush Hikers Anonymous. She carries 2 other members in her car to a club walk. The 2 other members pay Helen part of the costs of operating her car for the club walk.

Note 1 For the entitlement of a person to operate a public passenger service, see the following provisions:

- s 18 and s 19 (bus services)
- s 51 (taxi services)
- s 73 (hire car services)
- s 90 (demand responsive services).

Note 2 This section also does not apply if the person is exempted from the operation of this section under s 127 or s 128.

Note 3 An example is part of the Act, 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 offence against this section is a strict liability offence.

126 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified and presented to the Legislative Assembly, under the Legislation Act.

- (2) A regulation may apply, adopt or incorporate a law of another jurisdiction or an instrument, or a provision of a law of another jurisdiction or instrument, as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

- (3) A regulation may make provision in relation to the powers and duties of police officers and authorised officers in relation to public passenger services, including, for example, in relation to public passenger vehicles, drivers of public passenger vehicles and passengers.

Note An example is part of the Act, 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).

- (4) A regulation may create offences and fix maximum penalties of not more than 20 penalty units for the offences.
- (5) In this section:

law of another jurisdiction—see the Legislation Act, section 47 (10).

127 Minister may exempt vehicles and people from Act

- (1) The Minister may exempt a vehicle or person from this Act (or a stated provision of this Act).
- (2) An exemption is a disallowable instrument.

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

128 Regulations may exempt vehicles and people from Act

- (1) A regulation may—
 - (a) exempt a vehicle or person, or a kind of vehicle or person, prescribed by regulation from this Act (or a stated provision of this Act); or
 - (b) authorise the road transport authority to exempt a vehicle or person, or a kind of vehicle or person, by regulation from this Act (or a stated provision of this Act).
- (2) An exemption given under a regulation mentioned in subsection (1) may be conditional.
- (3) A regulation may provide for the road transport authority to—
 - (a) suspend the operation of a regulation mentioned in subsection (1) (a) in the way and circumstances prescribed by regulation; or
 - (b) suspend the operation of an exemption given by the authority to a vehicle or person in the way and circumstances prescribed by regulation.

129 References to Motor Traffic Act, Traffic Act etc

- (1) In any Act, instrument made under an Act or document, a reference to an earlier law is, in relation to anything to which this Act applies, a reference to this Act.
- (2) In this section:
earlier law means any of the following:
 - (a) *Motor Traffic Act 1936*;
 - (b) *Motor Traffic Regulations 1934*;
 - (c) *Road Transport (Bus Services) Regulations 2000*;
 - (d) *Road Transport (General) Act 1999*;
 - (e) *Road Transport (Hire Vehicle Services) Regulations 2000*;
 - (f) *Road Transport (Taxi Services) Regulations 2000*.

19 Dictionary, new definitions

insert

accredited demand responsive service operator means accredited under a regulation to operate a demand responsive service.

authorisation, in relation to a demand responsive service, means an authorisation under this Act to operate a demand responsive service.

authorised demand responsive service operator means a person who is authorised under this Act to operate a demand responsive service.

demand responsive service—see section 80.

demand responsive service vehicle—see section 81.

20 Dictionary, definition of *public passenger vehicle*

omit

or hire car

insert

, hire car or demand responsive service vehicle

21 Dictionary, definition of *service contract*

substitute

service contract—

- (a) for part 2 (Bus services)—see section 17; and
- (b) for part 8 (Demand responsive services)—see section 89.

Schedule 1 Other amendments

(see s 3)

[1.1] Section 24 (a) (i)

substitute

- (i) the safety of passengers (including, for example, by the use of particular kinds of security devices) and the public; and

[1.2] Section 25 (c)

omit

by drivers

[1.3] Section 25 (e)

omit

transportation

substitute

transport

[1.4] Section 56 (c)

omit

operated by an accredited taxi service operator

[1.5] Section 56 (d)

after

for example,

insert

by the use of

[1.6] Section 76 (a)

omit

operated by an accredited hire car service operator

[1.7] Section 76 (b)

after

for example,

insert

by the use of

[1.8] Section 77 (i)

omit

by drivers

[1.9] Other amendments, mentions of *The regulations are to*

omit

The regulations are to

substitute

A regulation may

in

- section 16 (1)
- section 31 (1)
- section 44 (1)
- section 50 (1)
- section 66 (1)
- section 72 (1)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 December 2005.

2 Notification

Notified under the Legislation Act on 15 March 2006.

3 Republications of amended laws

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

I certify that the above is a true copy of the Road Transport (Public Passenger Services) Amendment Bill 2006, which originated in the Legislative Assembly as the Road Transport (Public Passenger Services) Amendment Bill 2005 and was passed by the Assembly on 9 March 2006.

Clerk of the Legislative Assembly

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