

2012

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

**ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) AMENDMENT
REGULATION 2012 (No 1)**

SL2012-1

EXPLANATORY STATEMENT

Presented by
Simon Corbell MLA
Attorney General

OVERVIEW

This Regulation is made under section 128 of the *Road Transport (Public Passenger Services) Act 2001* and section 233 (2) of the *Road Transport (General) Act 1999*.

Consideration of the establishment of an Independent Taxi Operator (ITO) Pilot was a recommendation of the 2010/2011 ACT Taxi Review. A Regulatory Impact Statement (RIS) was undertaken as part of this Review. The RIS concluded that independent taxi operators could see an improvement in their business viability and customers who opt to use independent taxis could expect benefits to include a higher level of customer service in areas such as timeliness, reliability, vehicle roadworthiness and appearance and improved driver attitude.

This Regulation gives effect to the decision to establish an ITO Pilot. It amends the *Road Transport (Public Passenger Services) Regulation 2002* to:

- provide for a 3-year duration for the pilot;
- give the Road Transport Authority powers to determine eligibility criteria for participation in the pilot;
- exempt pilot participants from certain provisions of the *Road Transport (Public Passenger Services) Act 2001* and Regulation;
- allow the Road Transport Authority to remove participants who fail to comply with the minimum service standards or the road transport legislation from the pilot; and
- require the Road Transport Authority to review the operation of the pilot before its expiry and report to the Minister.

The pilot will provide an opportunity to assess whether this model of taxi service provision results in:

- improved taxi operator viability, primarily by operators not having to pay costly annual taxi network affiliation fees;
- competitive pressure, to act as an incentive for taxi networks to improve their level of service to operators and taxi users;
- opportunities for developing niche markets and a superior level of service especially for the business customer; and
- greater choice for taxi users as to the providers of their transport services.

The amendments provide that decisions by the Road Transport Authority to refuse an application to participate in the pilot or to end a pilot participant's exemption from certain requirements of the public passenger services legislation are internally reviewable. Amendments are made to the *Road Transport (General) Regulation 2000* to insert references to these internally reviewable decisions in Schedule 1, Part 1.8 of this regulation.

Notes on Clauses

Clause 1 Name of regulation

This is a formal provision that sets out the name of the regulation.

Clause 2 Commencement

This is a formal provision that provides that the regulation will commence on a day set by the Minister by written notice.

Clause 3 Legislation amended

This clause provides that this regulation amends the *Road Transport (Public Passenger Services) Regulation 2002* and the *Road Transport (General) Regulation 2000*.

Clause 4 New Division 4.3.4A Independent taxi services

This clause inserts new division 4.3.4A. This division consists of new sections 154A to 154H inclusive.

New section 154A is an objects clause that explains the purpose of new division 4.3.4A. That purpose is to establish a legal framework for an Independent Taxi Operator pilot. It explains that the provisions of the division will permit, on a temporary basis, certain accredited taxi operators to provide a taxi service while not being affiliated with an accredited taxi network. The purpose of the trial, referred to as the ITO pilot, is to evaluate whether independent taxi operations contribute to improved taxi services and the operation of taxi services generally.

New section 154B explains that the duration of the ITO pilot is 3 years from the date division 4.3.4A commences.

New section 154C provides that the Road Transport Authority may approve eligibility criteria for the ITO pilot, and that the approval is a notifiable instrument. Eligibility criteria will be approved for the ITO pilot to ensure that service standards are maintained by independent taxi operations. The Road Transport Authority has already published details of the intended criteria to participate in the ITO. These include that the accredited taxi operator has held continuous accreditation for a minimum of 4 years and can demonstrate a good track record of compliance with public passenger legislation. To ensure that service standards are maintained under independent taxi operations, specific requirements will be imposed on independent taxi operators. These requirements will relate to monitoring driver and passenger safety, driver training, performance reporting, handling customer complaints, inquiries and lost property. Operators who wish to participate in the pilot will need to show how they will meet these requirements as part of their accreditation to operate an independent taxi service.

The eligibility criteria will also require that the applicant demonstrate to the Road Transport Authority that the applicant:

- a) has the financial capacity to operate a taxi service;
- b) is a fit and proper person to participate in the pilot; and
- c) has provided a business plan for the applicant's independent taxi service.

New section 154D provides that accredited taxi operators may apply to the Road Transport Authority for approval to participate in the ITO pilot. The note to the section explains that if the Road Transport Authority approves an ITO pilot application form under the *Road Transport (General) Act 1999*, applicants for the pilot must use the approved form.

New section 154E requires that the Road Transport Authority must either approve, or refuse to approve, an application to participate in the ITO pilot. If approving an application the Road Transport Authority must be satisfied on reasonable grounds that the applicant satisfies the ITO pilot eligibility criteria and complies with the approved independent taxi services minimum service standards.

The Road Transport Authority must give the applicant written notification of its decision. A decision of the Road Transport Authority to refuse an application is internally reviewable.

New section 154F deals with exemptions from certain provisions of the road transport legislation for pilot participants. Section 51(c) of the *Road Transport (Public Passenger Services) Act 2001* provides that to operate a taxi service, an accredited taxi operator must be affiliated with an accredited taxi network provider. Under section 54 of that Act, it is an offence for an operator to operate a taxi service without being affiliated with such a network.

Section 101(1) of the *Road Transport (Public Passenger Services) Regulation 2002* requires that a taxi operator must have a taxi booking service arrangement with an accredited taxi network, while section 101(2) provides that equipment installed in the taxi must enable messaging between the vehicle and the network. New section 154F provides that the Road Transport Authority may provide ITO pilot participants (this term is defined in new section 154F (5)) with an exemption from these sections of the road transport legislation, on condition that the ITO pilot participant complies with the approved minimum service standards for independent taxi services.

If the Road Transport Authority believes, on reasonable grounds, that an ITO pilot participant has failed to comply with the approved minimum service standards for independent taxi services or the road transport legislation, the authority may end the exemption. The authority must give the pilot participant written notice of a decision to end an exemption. The notice must include the reasons for the decision and any other information the authority considers appropriate. This would typically include information about how to seek internal review of decisions. The notice must state that the decision takes effect when it is served on the participant. The notes to this section relate to the service of notices. If the notice is served in person, it will take effect when it is given to the person. For posted notices, under section 9B of the *Road Transport (General) Regulation 2000*, there are provisions about when notices sent by post are deemed to have been served that will be relevant.

A decision to end an exemption is internally reviewable.

New section 154G requires the Road Transport Authority to review the operation of the ITO pilot and provide the Minister a report of the review before the expiry of the pilot.

New section 154H provides that Division 4.3.4A (Independent Taxi Services) expires 3 years after it commences.

Clause 5 Dictionary - new definitions

This clause inserts definitions for *ITO pilot* and *ITO pilot period* into the dictionary.

Clause 6 Dictionary - definition of taxi service

This clause substitutes a revised definition of *taxi service*. This amendment makes it clear that the reference to ‘section 47’ in the definition relates to section 47 of the Act, rather than section 47 of the Regulation.

Clause 7 Road Transport (General) Regulation 2000, schedule 1, part 1.8, new items 24A and 24B

This clause inserts references to the internally reviewable decisions made under new sections 154E (1) and 154F (3) into part 1.8 of Schedule 1 of the *Road Transport (General) Regulation 2000*, which lists internally reviewable decisions under the *Road Transport (Public Passenger Services) Regulation 2002*.