

2018

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

**ROAD TRANSPORT REFORM (LIGHT RAIL) LEGISLATION AMENDMENT
BILL 2018**

REVISED EXPLANATORY STATEMENT

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ROAD TRANSPORT REFORM (LIGHT RAIL) LEGISLATION AMENDMENT BILL 2018

Introduction

This explanatory statement relates to the Road Transport Reform (Light Rail) Legislation Amendment Bill 2018 (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 Assembly.

The Statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview of the Bill

The Bill amends the road transport legislation to establish the regulatory framework for the operation of the light rail as a public passenger service.

Light rail in Canberra will provide more accessible transport options for Canberrans, as part of an integrated transport system. This Bill will help deliver a modern, safe, convenient and sustainable public transport system for Canberra.

Broadly, the amendments made to the public passenger services legislation by the Bill:

- (a) Establish the criteria to operate a light rail service in the ACT.
- (b) Establish obligations on the operator about the management of the light rail service. This includes reporting obligations consistent with those in the Rail Safety National Law, ensuring drivers meet licensing requirements and keeping records about drivers and light rail vehicles.
- (c) Establish the requirements for ticketing and inspection of tickets for validity.
- (d) Establish acceptable passenger conduct and behaviour on the light rail service to promote the safety, security and comfort of all passengers, the public and protect light rail equipment.
- (e) Establish enforcement powers to be exercised by territory officers, police and selected staff of the light rail service operator. These powers will focus on behaviour and conduct on the light rail service, including both the light rail vehicles and the light rail stops.

The Bill also makes an amendment to the *Working with Vulnerable People (Background Checking) Act 2011* to require light rail drivers, light rail driving assessors, light rail driving instructors and staff of the light rail service operator who will be exercising powers and functions under the road transport legislation to have a working with vulnerable people registration. These people will be interacting with members of the public on a regular basis, including children and vulnerable people.

The Bill also makes a number of consequential amendments to both the road transport legislation and other legislation, which are set out in Schedule 1.

In addition, the Bill makes amendments to the *Rail Safety National Law (ACT) Act 2014* to incorporate national amendment regulations, which are set out in Schedule 2.

Human rights implications

During the Bill's development due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004* (HRA).

The Bill engages the following rights under the HRA:

- section 8 – recognition and equality before the law
- section 11 – protection of the family and children
- section 12 – privacy and reputation
- section 13 – freedom of movement
- section 16 – freedom of expression
- section 18 – right to liberty and security of person
- section 22 – rights in criminal proceedings.

Section 28 of the HRA provides that human rights may be 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
- (e) any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.

An assessment of the Bill against section 28 of the HRA is provided below.

An individual's rights and freedoms have, in some cases, been limited by this Bill on the basis that it is in the wider public interest that the light rail service 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 a safe and accessible light rail service for the Territory.

Section 40B of the HRA requires public authorities to act and make decisions in a manner consistent with human rights. Section 40 of the HRA defines a *public authority* as an entity who is performing functions of a public nature for the territory (whether under a contract or otherwise).

Section 40A sets out functions which are taken to be functions of a public nature, this includes public transport. On this basis, the light rail service operator is a public authority for the purposes of the HRA and therefore under section 40B is required to act and make decisions consistent with human rights.

Recognition and equality before the law

Section 8 of the HRA provides that everyone is entitled to equal and effective protection against discrimination, and to enjoy their human rights without discrimination.

‘Equality before the law’ has been essentially held to mean that judges and administrative officials must not act arbitrarily in enforcing laws¹. The non-discrimination provisions in the HRA are founded on articles 2 (1) and 26 of the International Covenant on Civil and Political Rights (the ICCPR). ‘Discrimination’ as the term appears in the ICCPR is understood as meaning any ‘distinction, exclusion, restriction or preference which is based on any ground which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms’.

It is within community expectations that access to public facilities and services are regulated so that they are safe, efficient, effective and affordable for everyone. To the maximum extent possible, in regulating the light rail service, the approach has been to limit any disproportionate impacts on any particular groups. However, as a public passenger service it has been necessary to include provisions that could put some members of the community at a disadvantage.

It has also been necessary to engage in positive discrimination by taking steps to ensure that specific groups within society are not being disadvantaged when using the light rail service, for example, those with a disability who have an assistance animal. The Bill makes it clear that where a person requires the assistance of a mobility aid or assistance animal, these can be brought onto light rail vehicles. In addition, the light rail vehicles and light rail stops have been designed with disability standards in mind. Any technology a person is required to use to validate a light rail ticket will be easy to see and include colours and noises to ensure that it can be utilised by all members of the community.

Nature of the right affected

This Bill could be seen to engage this right through:

- Providing authorised persons and police with the power to direct a person to get off or not get on a light rail vehicle or leave a light rail stop if the person is under the influence of liquor or a drug and is causing, or is likely to cause, a nuisance or an annoyance to someone else.
- Regulating access to public facilities and services, in particular the creation of offences based on conduct by passengers or the public, for example, behaviour that interferes with

¹ NNowak, M *UN Covenant on Civil and Political Rights: CCPR Commentary*, 2nd revised edition, N.P. Engel, Publisher, 2005 at 606

the comfort or safety of other people (putting feet on seats, offensive language). These offences could be seen to disadvantage certain members of the community.

- Providing for access to the light rail service by people with disabilities, including exemptions from offences when related to mobility aids and permitting the use of assistance animals on light rail vehicles.

These provisions may engage the right to equality and non-discrimination because they have the potential to disproportionately impact on certain segments of the community – for example, groups that rely on public transportation as their only mode of transportation, or drug and alcohol users. However, the offences are drafted so that the emphasis is on the behaviour and the risk it poses to public safety and property, rather than a particular character trait or aspect of an individual.

The importance of the purpose of the limitation

The ability to move on a person who is intoxicated or under the influence of a drug and is behaving in a way that causes, or is likely to cause, a nuisance or annoyance to someone else, is important to ensure the safety of the public and amenity of light rail vehicles and light rail stops for the benefit of the broader community.

Passengers on a light rail vehicle will in most instances not have the option to remove themselves from the behaviour, especially if the light rail vehicle is crowded. Therefore, if there is risk of harm to the individual or the public, the source of the harm should be able to be removed.

The nature and extent of the limitation

The Bill creates provisions that are consistent with those that already exist for other public passenger services in the Territory, in particular, bus services. The provisions are drafted to limit any disproportionate impacts on any particular groups and ensure that the light rail service is accessible to everyone.

The relationship between the limitation and its purpose

The Bill supports harm reduction by ensuring that people that are intoxicated do not enter or remain on light rail vehicles or light rail stops where they may pose a risk to themselves or the broader community.

The training of authorised persons will draw to their attention the *Liquor (Intoxication) Guidelines 2017* issued under the *Liquor Act 2010* that sets out a number of signs of intoxication, relating to behaviour (including aggression, using offensive language and vomiting), speech (including slurred or incoherent speech), coordination and balance. It is important to note that the offences in relation to intoxication on the light rail service are focused on the behaviour of the intoxicated person causing or being likely to cause nuisance or annoyance to someone else. The fact that a person is intoxicated or under the influence of drugs is not in and of itself an offence. The light rail service should be viewed as an alternative to driving for people who are intoxicated or under the influence of drugs.

Authorised persons will be encouraged to both observe and talk to people thought to be possibly intoxicated or under the influence of a drug before making a decision to direct them to leave light rail vehicles or light rail stops. Authorised persons will also be trained in discrimination standards, cultural sensitivities and awareness of mental health issues.

Less restrictive means reasonably available to achieve this purpose

It is not considered that there are any less restrictive means available to achieve the purpose of reducing alcohol and drug related harm and ensuring the safety of passengers and members of the public around the light rail service.

Right to protection of the family and children

Section 11 (2) of the HRA provides that ‘every child has the right to the protection needed by the child because of being a child, without distinction or discrimination or any kind’.

Minors are entitled to special protection in recognition of their vulnerability because of their status as a child. This is not limited to the treatment within the family but extends to treatment by others and public authorities².

The *Criminal Code 2002* (sections 25 and 26) establishes the age at which a child is criminally responsible for an offence (10 years) and that a child aged 10 years or older, but under 14 years old, can only be criminally responsible for an offence if the child knows that his or her conduct is wrong. The prosecution has to prove that the child knew their conduct was wrong.

Nature of the right affected

The Bill creates a number of criminal offences relating to ticketing, passenger conduct and conduct of the public. These offences could engage a child’s right to protection as these offences could be applied to them.

The importance of the purpose of the limitation

While potentially limiting a child’s right to protection, the application of these offences to a child are justified and reasonable because it is in the wider public interest to have a light rail service that is properly regulated to achieve a safe and accessible public passenger service for the Territory.

The nature and extent of the limitation

The rights of the child can be limited under this Bill through being issued with an infringement notice or asked to leave a light rail vehicle or light rail stop. The impact of these powers on freedom of movement and deprivation of liberty are discussed separately.

An infringement notice can only be issued to a child who is 14 years of age and older but not older than 18 years old.

² Department of Justice and Community Safety, *Guidelines for ACT Departments: Developing Legislation and Policy*, February 2010, p 27.

Infringement notices are only suitable when the offence does not require proof of intention or some other mental element. Section 26 of the Criminal Code requires the prosecution to prove for a child aged 10 years or older, but under 14 years old, that the child knew that the conduct was wrong (mental element of knowledge).

The offences in the Bill cannot be applied to children under 10 years of age as they cannot be held criminally responsible for their actions.

The relationship between the limitation and its purpose

It is important that the application of ticketing offences and conduct offences related to the light rail service are applied consistently. Fare evasion should be managed in accordance with the ticketing requirements for the light rail service. The ticketing system for the light rail service will be integrated with the ticketing system used in ACTION buses - enabling convenient connections for commuters between light rail and bus services. Thus any concession entitlements or free travel arrangements will apply across both services.

It is important that any risk to public safety can be appropriately addressed and in some instances this will require the moving on of those people causing the risk. This should be able to be applied to all persons, irrelevant of age.

Less restrictive means reasonably available to achieve this purpose

It is not considered that there are any less restrictive means available to appropriately regulate the light rail service as a public passenger service.

Authorised persons will be appropriately trained when engaging with children on the light rail service to ensure that they are treated in a way that is appropriate for their age. In addition, authorised persons are required to hold a working with vulnerable people registration.

Right to privacy

Section 12 of the HRA provides that everyone has the right to not have his or her privacy interfered with unlawfully or arbitrarily.

This Bill can be considered to be engaging these rights by:

- requiring people to provide their details to police and authorised persons to enable enforcement activity to occur
- incident reporting requirements on the light rail service operator
- use of security cameras on light rail vehicles and light rail stops.

Nature of the right affected

The light rail service operator is required to be accredited under the *Rail Safety National Law* and is a rail transport operator under that law. With that comes a number of obligations including reporting requirements.

The light rail service operator is required to report any notifiable occurrences to the road transport authority at the same time as it is required to notify the national rail safety regulator.

A notifiable occurrence is defined in the *Rail Safety National Law* and includes incidents that involve death, serious injury or significant property damage.

The Bill also requires people to provide their personal details to police officers and authorised persons to enable enforcement activities to be undertaken.

In addition, the light rail vehicles and light rail stops will be fitted with security cameras. This footage may be used to investigate any incidents that occur.

The importance of the purpose of the limitation

The limitation will achieve the important purpose of protecting the light rail service operator, light rail service operator staff and members of the community by ensuring that the light rail service operator, the Territory and police can take appropriate action in relation to any incidents and enforce the regulatory framework for this public passenger service.

The nature and extent of the limitation

Members of the public are likely to understand that using public transport involves a necessary limitation on their right to privacy and are therefore unlikely to have a reasonable expectation of privacy when using a public transport service.

Disclosure of reports of notifiable occurrences will be limited to those involved in any investigation of the incident – the Territory, Police, the light rail service operator, the national rail safety regulator. Any interference with privacy in relation to reporting of notifiable occurrences will only apply to those individuals who are involved in such an incident.

Where a police officer or an authorised person believes, on reasonable grounds, that a person is committing or has committed an offence under the *Road Transport (Public Passenger Services) Act 2001*, they may require a person to state their name and address (section 121 of the *Road Transport (Public Passenger Services) Act 2001*). The police officer or authorised person must tell the person the reason for the requirement and produce his or her identity card for inspection by the person. The provision of identifying information is an essential part of the effectiveness of any scheme designed to protect the public.

The light rail service operator is required to place signs in light rail vehicles and at light rail stops, where they can be easily seen, informing the public and passengers that security cameras operate in these locations, thus putting people on notice that they may be recorded.

The relationship between the limitation and its purpose

In addition to their deterrent effect, use of security camera footage is also valuable for investigation and prosecution of crime.

Requiring people to provide their name and address directly relates to the purpose of effective enforcement, public safety and protection of property and revenue.

Less restrictive means reasonably available to achieve this purpose

There are no less restrictive means reasonably available to achieve the purpose of the Bill as the provision of personal information and the collection of personal information are an essential part of revenue protection (fare evasion) and ensuring the safety of passengers and the public. The requirement to give information, answer questions or anything else reasonably needed, is fundamental to the safe and accessible operation of a public passenger service.

If individuals did have a reasonable expectation of privacy in relation to light rail premises and the use of security cameras constituted an interference with privacy, the interference is likely to be reasonable and justified, given the role of the security cameras in protecting the safety of light rail drivers, passengers, staff of the light rail service operator and members of the public. Any interference would be lawful and not arbitrary.

The Territory and police are subject to the *Information Privacy Act 2014*, in particular the territory privacy principles. Canberra Metro – which is contractually responsible for the build and operation of the light rail service – is contractually required to comply with the *Information Privacy Act 2014* and act in accordance with the territory privacy principles in relation to the collection, use and storage of personal information.

Freedom of movement

Section 13 of the HRA provides that everyone has the right to move freely within the ACT and to enter and leave it, and the freedom to choose his or her residence in the ACT. This is relevant in the ACT today, in respect to circumstances involving people’s access to public places. The right to move freely within the ACT means that a person cannot be arbitrarily forced to remain in, or move to or from, a particular location.

The right has inherent limitations, which are acknowledged at subsection (3) of article 12 of the International Covenant on Civil and Political Rights (the ICCPR) (the equivalent right to section 13 of the HR Act):

the rights to liberty and freedom of movement shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights or freedoms of others and are consistent with the other rights recognised in the Covenant.

Nature of the right affected

This Bill:

- requires a person to have a valid ticket to travel on a light rail service
- requires a person to produce a valid ticket for inspection when requested by a police officer or authorised person
- gives police and authorised persons the power to direct a person to leave a light rail vehicle or light rail stop

- gives police and authorised persons the power to detain a person to obtain their name and address so as to undertake enforcement activity (for example, issue an infringement notice)
- gives police the power to remove a person from a light rail vehicle or light rail stop.

The Bill provides police and authorised persons with the power to require a person to present a valid ticket for inspection when:

- in a light rail vehicle
- just left a light rail vehicle
- there is a reasonable belief that the person is at a light rail stop with the intention to board a light rail vehicle
- in a place, connected to a light rail service, that has been declared by the Minister.

The importance of the purpose of the limitation

The purpose of the limitation (protecting the public and property), from the dangers posed by behaviour in a public place that interferes with the comfort and safety of others is of high importance.

The nature and extent of the limitation

The powers in this Bill that can be argued to restrict a person's access to a public place are considered to be appropriate legislative mechanisms to address fare evasion and protect the public and property.

Examples of when the Minister may declare a place as an area where a valid ticket is required are:

- there are high levels of fare evasion at a particular stop or at particular times of the day and other administrative processes (for example, increasing the presence of authorised persons, education campaigns) have been unsuccessful in addressing the issue
- special events
- large crowds are expected.

The relationship between the limitation and its purpose

The limitation is not extensive. The power to direct a person to leave a light rail vehicle or light rail stop is limited to circumstances where the person is committing or has just committed a ticketing or conduct offence or the person's behaviour poses undue risk to other people, revenue or property.

Authorised persons must satisfy the reasonable grounds test before directing a person to leave a light rail vehicle or light rail stop or not get on a light rail vehicle. An authorised person must have appropriate grounds for giving the direction. Authorised persons will be trained to ensure that the person being issued with the direction is informed that failure to comply with a direction may result in them committing an offence and/or being removed from the light rail vehicle or light rail stop. This provides the person with an opportunity to modify their behaviour.

Police officers must satisfy the reasonable grounds test before removing a person or directing a person to leave a light rail vehicle or light rail stop or not get on a light rail vehicle. The ability to remove a person from a light rail vehicle or light rail stop is limited to police.

This minimises the risks of unreasonable force being applied to a person or a person being unreasonably or illegally detained as the persons exercising the powers are suitably qualified and know the legal concepts surrounding reasonable force and what constitutes lawful detention.

The Bill seeks to support an early intervention process where a person has the ability to leave a light rail vehicle or light rail stop of their own accord once given a direction by an authorised person.

Furthermore as light rail vehicles and light rail stops will be frequented by people of various ages, the dangers represented by such behaviour highlight the need for public safety measures dealing with that behaviour to be directed at changing the behaviour, or removing the source of the behaviour, from the light rail vehicles or light rail stops as quickly as possible.

Less restrictive means reasonably available to achieve this purpose

There is no less restrictive means available as without the limitation on the right to freedom of movement in these situations, the Territory, police and the light rail service operator would not have sufficient powers to protect the public, property and take action against fare evasion.

There comes a point in time where a person must modify their behaviour or be subject to the consequences.

Furthermore, a number of mechanisms and specific safeguards have been inserted throughout the early intervention process to limit the human rights impact at those stages. For example, removal and refusal of entry must only occur in those circumstances specified in new sections 70AAL, 70AAM, 70AAN and 70AAO of the *Road Transport (Public Passenger Services) Regulation 2002*.

Passengers on a light rail vehicle will in most instances not have the option to remove themselves from any behaviour that is perceived as causing risk to them, especially if the light rail vehicle is crowded. Therefore, if there is risk of harm to the individual or the public, the source of the harm should be able to be removed.

Right to freedom of expression

Section 16 of the HRA provides that everyone has the right to hold opinions without interference and the right to freedom of expression. The right to freedom of expression includes the freedom to seek, receive and impart information and ideas of all kinds, orally, in writing, in print, by way of art or in any other way a person chooses.

Under article 19 (3) of the International Covenant on Civil and Political Rights ('the ICCPR') (from which section 16 derives), freedom of expression may be limited as provided for by law and in circumstances where it is necessary to protect the rights or reputations of others, national security, public order, public health or morals.

Nature of the right affected

The right to express oneself and one's views on any given issue is a fundamental part of Australian democracy.

Section 70AAL (1) (d) of the Bill provides authorised persons and police with the power to direct a person to get off, or not get on, a light rail vehicle if they are under the influence of alcohol or a drug and are causing or are likely to cause a nuisance or annoyance to someone else. The annoyance or nuisance must be directly related to the person's intoxication or drug use. This section of the Bill does not give authorised persons or police the power to direct a person to get off, or not get on, a light rail vehicle simply because the person's behaviour is causing or likely to cause a nuisance or annoyance to someone else.

Section 70AAL (1) (a) (ii) of the Bill does provide authorised persons and police with the power to direct a person to get off, or not get on, a light rail vehicle if the person is committing, or had just committed an offence against part 3AA.3, which includes behaviour that interferes with comfort or safety (section 70AT). Section 70AT (3) makes it a strict liability offence for a person to use offensive language, behave in an offensive way or behave in an aggressive or menacing way. This offence in conjunction with the powers in section 70AAL could be argued to engage the right to freedom of expression in section 16 of the HRA.

Section 70AAN (1) (b) of the Bill provides authorised persons and police with the power to direct a person to leave a light rail stop if they are under the influence of alcohol or a drug and are causing or are likely to cause a nuisance or annoyance to someone else. The annoyance or nuisance must be directly related to the person's intoxication or drug use. This section of the Bill does not give authorised persons and police the power to direct a person to get off, or not get on, a light rail vehicle simply because the person's behaviour is causing or likely to cause a nuisance or annoyance to someone else.

Section 70AAN (1) (a) (i) of the Bill does provide authorised persons and police with the power to direct a person to leave a light rail stop if the person is committing, or had just committed an offence against section 70AT (Behaviour that interferes with comfort or safety). Section 70AT (3) makes it a strict liability offence for a person to use offensive language, behave in an offensive way or behave in an aggressive or menacing way. This offence in conjunction with the powers in section 70AAN could be argued to engage the right to freedom of expression in section 16 of the HRA.

It is within community expectations that access to public facilities and services are regulated so that they are safe, efficient, effective and affordable for everyone. To the maximum extent possible, in regulating the light rail service, the approach has been to limit any disproportionate impacts on people.

Details of the exercise of powers by authorised persons and police are covered in other sections of the human rights implications section of this explanatory statement.

The importance of the purpose of the limitation

The purpose of the limitation, protecting the public, from the dangers posed by behaviour in a public place that interferes with the comfort and safety of others is of high importance.

The offences are drafted so that the emphasis is on the behaviour and the risk it poses to public safety, rather than a particular character trait or aspect of an individual.

Passengers on a light rail vehicle will in most instances not have the option to remove themselves from the behaviour, especially if the light rail vehicle is crowded. Therefore, if there is a risk of harm to the individual or the public, the source of the harm should be able to be removed.

The nature and extent of the limitation

The Bill creates provisions that are consistent with those that already exist for other public passenger services in the Territory, in particular, rideshare and taxi services.

The provisions do not interfere with a person's more general right to express themselves or their views. The provisions regulate this behaviour where it is offensive, aggressive or menacing and impacts on public order and the rights of others to safe use of public facilities.

The relationship between the limitation and its purpose

It must be recognised that people are generally on notice concerning what behaviour is considered appropriate on public transport and at public transport related areas. The potential risks of ineffective regulation of the light rail service include an environment where public safety measures are not in place.

Less restrictive means reasonably available to achieve this purpose

There are no less restrictive means available to deliver a safe and accessible light rail service and protect the public. Unacceptable passenger conduct is known to make people less willing to use public transport modes.

Right to liberty and security of person

Section 18 of the HRA provides that everyone has the right not to be arbitrarily arrested or detained and no-one may be deprived of liberty, except on the grounds and in accordance with the procedures established by law. This right can be relevant any time a person is not free to leave a place by his or her own choice. This includes the interim detention of a person, for example, to allow a public authority to control movement within an area or take a person's details for enforcement purposes.

Nature of the right affected

Under this Bill, passengers on a light rail service can be detained to provide evidence that they hold a valid ticket for travel. They and persons on light rail stops can also be detained to

enable a police officer or authorised person to take down their details in order to take enforcement action (for example, issue an infringement notice).

Police and authorised persons will also have the power to direct a person to leave a light rail vehicle or light rail stop. Police also have the power to remove a person from a light rail vehicle or light rail stop.

The importance of the purpose of the limitation

While potentially limiting a person's right to liberty, the Bill is justified and reasonable because it is in the wider public interest to have a light rail service that is properly regulated. The limitations allow community enjoyment of the light rail service and ensure the safety and security of the community and revenue protection.

The nature and extent of the limitation

Authorised persons for the light rail service will be authorised under existing provisions in the *Road Transport (General) Act 1999*. There are a number of mandatory criteria a person must meet under that Act in order to be appointed as an authorised person, this includes:

- being an Australian citizen or a permanent resident of Australia
- satisfying the road transport authority that they are a suitable person having regard in particular to:
 - whether the person has any criminal convictions
 - and
 - the person's employment record
- completing adequate training to exercise the powers being given to the person.

Authorised persons appointed by the road transport authority will be restricted to only the minimum powers necessary to ensure safety and security in light rail vehicles and at light rail stops and revenue protection.

The relationship between the limitation and its purpose

A person must not be detained for longer than is reasonably necessary to remove the person, take down the person's details, inspect the person's ticket or issue the person with a direction.

Less restrictive means reasonably available to achieve this purpose

It is not considered that there are any less restrictive means available to appropriately regulate the light rail as a public passenger service.

Strict liability offences

During the Bill's development, careful consideration has been given as to whether the punishment of offences not involving fault (strict liability offences) is likely to significantly enhance the effectiveness of the regulatory scheme.

A strict liability offence means that there are no fault elements for the physical elements of the offence to which strict liability applies which essentially means that the conduct alone is

sufficient to make the defendant culpable. There is a specific defence of mistake of fact for strict liability offences (section 23, Criminal Code).

Strict liability offences more typically arise in a regulatory context where for reasons such as consumer protection and public safety, the public interest in ensuring that regulatory schemes are complied with, requires the sanction of criminal penalties. In particular, where a defendant can reasonably be expected, because of his or her involvement with the regulated activity, to know what the requirements of the law are, the mental, or fault, element can justifiably be excluded.

The Bill creates a number of new offences, including a number of strict liability offences. These offences cover:

- obligations on the light rail service operator
- conduct of passengers on light rail vehicles
- conduct of the public at light rail stops.

These offences are consistent with existing offences for other public passenger services in the Territory and other jurisdictions.

It also amends an existing strict liability offence in section 199 of the *Liquor Act 2010* which makes it an offence for a person to consume liquor at certain public places, including bus stations, bus interchanges and places within 50 metres of a bus interchange and bus station.

The Bill may be seen as engaging the following rights under section 22 of the HRA:

- the presumption of innocence until proven guilty (section 22 (1))
- right against self-incrimination (section 22 (2) (i))
- right of a child who is charged with a criminal offence to a procedure that takes into account the child's age and the desirability of promoting the child's rehabilitation (section 22 (3)).

Strict liability offences – light rail service operator

The Bill creates the following strict liability offences in the *Road Transport (Public Passenger) Services Act 2001* that are applicable to a light rail service operator:

- section 27B Entitlement to operate light rail service

The Bill creates the following strict liability offences in the *Road Transport (Public Passenger Services) Regulation 2002* that are applicable to a light rail service operator:

- section 70AB Notifiable occurrence involving a light rail vehicle
- section 70AC Light rail driver etc to hold driver licence
- section 70AD Light rail driver records
- section 70AE Light rail driving instructor records

- section 70AF Light rail driving assessor records
- section 70AH Signs about security cameras in light rail vehicles and at light rail stops
- section 70AI Lost property in light rail vehicles and at light rail stops.

Nature of the right affected

The impact on human rights by these strict liability offences is reduced through the fact that they apply to a corporate entity and are not applied to individual staff members of a light rail service operator or to other persons.

It is reasonable to expect that a light rail service operator knows, or ought to know, its legal obligations. The operation of a rail network is regulated by the Rail Safety National Law.

The proposed strict liability offences target regulatory requirements that are essential to establishing and maintaining a safe, efficient, effective and affordable light rail service.

The importance of the purpose of the limitation

It is incumbent on the light rail service provider, who is providing a direct service to the public, to know and understand its regulatory requirements under the law. This is in the interests of everybody's safety and the integrity of the public transport industry in the Territory.

The nature and extent of the limitation

The requirements to which the offences apply are not burdensome in nature and relate to ensuring the light rail service is operated in a manner that is safe, efficient, effective and affordable.

The penalties for these offences are within the normal range for strict liability offences and the penalties are comparable to existing offences.

In developing these offences due regard was given to the guidance provided in the *Guide for Framing Offences* and the existing regulatory framework for other public passenger services in the Territory.

The relationship between the limitation and its purpose

The potential risks of ineffective regulation of the light rail service include an environment where public safety measures are not in place.

The Government considers that the strict liability offences in the Bill are relevant to ensuring the safety of passengers and the public engaging with the light rail service.

Less restrictive means reasonably available to achieve this purpose

It is not considered that there are any less restrictive means to deliver a safe and accessible light rail service. Similar provisions already exist in the Road Transport (Public Passenger Services) legislation. These offences also mirror obligations a light rail service operator already has under the Rail Safety National Law.

Section 23 (1) (b) of the *Criminal Code 2002* provides a specific defence of mistake of fact for strict liability offences. Section 23 (3) of the Code provides that other defences may also be available for strict liability offences, including the defence of intervening conduct or event, as provided by section 39 of the Code or lawful authority, as provided by section 43 of the Code.

In addition, a number of the offences applicable to the light rail service operator, include an element of reasonableness, for example, require the light rail service operator to take reasonable steps or to do something within a reasonable period of time.

Strict liability offences – passengers and members of the public

The Bill creates the following strict liability offences in the *Road Transport (Public Passenger Services) Regulation 2002*, applicable to passengers of the light rail service and members of the public engaging with the light rail service:

- section 50A Application for concession bus ticket
- section 50B Use concession bus ticket when not entitled
- section 70AL Valid light rail ticket required for travel
- section 70AM Light rail ticket not transferable
- section 70AN Damaged or changed light rail ticket not to be used
- section 70AP Application for concession light rail ticket
- section 70AQ Use concession light rail ticket when not entitled
- section 70AR Inspection of light rail ticket
- section 70AT(1), (2) and (3) Behaviour that interferes with comfort or safety
- section 70AU Inconvenient or dangerous items in light rail vehicle
- section 70AV Obstructing light rail vehicle door
- section 70AW Getting on and off light rail vehicle
- section 70AX Passenger not allowed on certain parts of light rail vehicle
- section 70AY Throwing objects in or from light rail vehicle
- section 70AZ Vacating designated seats in light rail vehicle
- section 70AAA Liquor in light rail vehicle or at light rail stop
- section 70AAC Eating or drinking in light rail vehicle
- section 70AAD Animal in light rail vehicle
- section 70AAE Lost property found on light rail vehicle or at light rail stop
- section 70AAF Removing light rail property
- section 70AAG Damaging light rail property
- section 70AAH Interfering with security camera or recording
- section 70AAI Interfering with emergency equipment

- section 70AAJ Interfering with light rail vehicle equipment
- section 70AAK Littering
- section 70AAL Police officer or authorised person—power to direct person to get off, or not to get on, light rail vehicle
- section 70AAN Police officer or authorised person—power to direct person to leave a light rail stop

Nature of the right affected

The rights under section 22 of the HRA are very important rights that have long been recognised in the common law and are now codified in the ACT through the HRA. These rights may be subject to limits, particularly when those who are subject to the offence would be expected to be aware of its existence.

The proposed strict liability offences are regulatory in nature, and target regulatory requirements that are essential to establishing and maintaining a safe, efficient, effective and affordable light rail service.

The importance of the purpose of the limitation

It is considered paramount that these offences be ones of strict liability to discourage certain behaviour in light rail vehicles and at light rail stops, protect property and revenue and public safety. As the primary purpose of the light rail service is to transport all members of the community, the maximum penalty units being applied for each offence reflect the Government's commitment to the light rail service being accessible to all members of the community.

It must be recognised that people are generally on notice concerning what behaviour is considered appropriate on public transport and at public transport related areas. For a person to commit an offence under the Bill they would be required to be actively involved in the behaviour resulting in the offence.

The potential risks of ineffective regulation of the light rail service include an environment where public safety measures are not in place.

The nature and extent of the limitation

The requirements to which the offences apply are not burdensome in nature and relate to the safe and accessible operation of the light rail service.

The penalties for these offences are within the normal range for strict liability offences and the penalties are generally comparable to existing offences. The penalties are not unduly harsh for offences of a regulatory nature. Where they are not comparable to existing offences, this is due to differences between the light rail service and other public passenger services or that existing provisions are not compliant with the Criminal Code or current drafting practices.

Any discrepancies between offences on ACTION buses and light rail services (it is intended that a customer's experience is seamless between these two modes) due to compliance with current statute and drafting requirements will be addressed prior to the commencement of light rail passenger services.

In developing these offences due regard was given to the guidance provided in the *Guide for Framing Offences* and the existing regulatory framework for other public passenger services in the Territory.

The relationship between the limitation and its purpose

A robust regulatory framework is important in deterring conduct that has the potential to bring harm to a range of people.

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

The Government considers that the strict liability offences in the Bill are relevant to ensuring the safety of passengers and the public engaging with the light rail service and the protection of property and revenue.

The offences address matters which society either regards as generally unacceptable behaviour or a risk to health and safety, property or revenue.

Less restrictive means reasonably available to achieve this purpose

It is not considered that there are any less restrictive means to deliver a safe and accessible light rail service. Similar provisions already exist in the Road Transport (Public Passenger Services) legislation.

The Bill ensures there are effective means to address unacceptable passenger conduct as a measure to protect fare revenue and encourage patronage of the light rail. Unacceptable passenger conduct is known to make people less willing to use public transport modes.

A public education campaign about the regulatory framework for the light rail service will be run by the light rail service operator and the ACT Government to inform the ACT community of its obligations when using the light rail service.

Authorised persons will be appropriately trained when engaging with children on the light rail service to ensure that they are treated in a way that is appropriate for their age. In addition, authorised persons are required to hold a working with vulnerable people registration.

Section 23 (1) (b) of the *Criminal Code 2002* provides a specific defence of mistake of fact for strict liability offences. Section 23 (3) of the Code provides that other defences may also be available for strict liability offences, including the defence of intervening conduct or event (section 39), duress (section 40), sudden or extraordinary emergency (section 41), self-defence (section 42) or lawful authority (section 43). For example, the defence of sudden or

extraordinary emergency will apply to the offences in section 70AAI (Interfering with emergency equipment) and other offences relating to interference with light rail property.

Climate Change Considerations

The climate change impacts of these amendments have been considered. The introduction of light rail provides the community with an additional mode of public passenger transport which is environmentally friendly due to low carbon emissions. The introduction of light rail will contribute to reduced reliance on private car use, easing traffic congestion and associated vehicle carbon emissions. In line with the Government's target of 100 per cent renewable electricity by 2020, the light rail will be powered by 100 per cent renewable electricity.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause specifies the name of the Bill, once enacted, as the *Road Transport Reform (Light Rail) Legislation Amendment Act 2018*.

Clause 2 Commencement

This clause provides that the Bill will commence on the seventh day after its notification day.

Clause 3 Legislation amended

This clause names the legislation amended by this Bill. This Bill amends the *Road Transport (Public Passenger Services) Act 2001* and the *Road Transport (Public Passenger Services) Regulation 2002*. The Bill also makes a number of consequential amendments that are set out in Schedule 1 and amendments to the *Rail Safety National Law (ACT) Act 2014* that are set out in Schedule 2.

Part 2 Road Transport (Public Passenger Services) Act 2001

This part of the Bill amends the *Road Transport (Public Passenger Services) Act 2001* (the Public Passenger Services Act) to regulate the operation of the light rail as a public passenger service.

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

This clause clarifies that other legislation applies in relation to offences against the Public Passenger Services Act. This clause inserts a new dot point in section 4A, note 1, indicating that the Criminal Code, Chapter 2 applies to new section 27B.

Clause 5 New part 2A

This clause inserts a new part in the Public Passenger Services Act, entitled Light rail services, that covers the regulation of light rail services in the Territory.

Meaning of *light rail service* and *light rail service operator* New section 27A

This provision creates new definitions of *light rail service* and *light rail service operator*.

Entitlement to operate light rail service
New section 27B

To operate a light rail service in the ACT, one must be accredited under the Rail Safety National Law and enter into a contract with the Territory to provide the light rail service.

The Rail Safety National Law was adopted in the ACT in 2014 and provides a comprehensive regulatory framework for the Australian railway industry, including light rail in the Territory and is administered by the Office of the National Rail Safety Regulator.

This provision makes it a strict liability offence for a light rail service operator to:

- fail to give the road transport authority a copy of its current notice of accreditation within two days of receiving the notice
- fail to notify the road transport authority, in writing, of any material changes in its accreditation within two days of the change coming into effect
- fail to give the road transport authority a copy of any notice of suspension or cancellation issued under the Rail Safety National Law.

The maximum penalty for these offences is 20 penalty units.

This provision also makes it a strict liability offence for a light rail service operator to fail to give the road transport authority a copy of any application to the Office of the National Rail Safety Regulator to vary its accreditation or a condition or restriction on its accreditation under the Rail Safety National Law. The maximum penalty for this offence is 10 penalty units.

Light rail services—power to determine fares
New section 27C

This provision allows the Minister to determine for light rail services: fares payable by passengers, ways of calculating fares and ways of paying fares via a disallowable instrument.

Light rail services—regulations
New section 27D

This provision provides for the making of regulations about the operation of light rail services. The regulations can make provision about:

- a) The operation of light rail services. The provision includes a non-exhaustive list of examples: the safety of passengers and the public, licensing requirements for light rail vehicle drivers and other people providing services relating to driving light rail vehicles, conduct or qualifications required by employees of the light rail service operator or a person exercising a function on behalf of the light rail service operator, light rail stops, the issue and inspection of tickets, record keeping and reporting, information sharing between the road transport authority and a light rail service operator and a light rail service operator's contract with the Territory to provide a light rail service.

- b) Travel on light rail vehicles. The provision includes a non-exhaustive list of examples: conduct of passengers on light rail vehicles, conditions of travel on light rail vehicles, the authority of police and authorised people to direct people contravening a regulation to get off or not get on a light rail vehicle, and the authority of police to remove a person contravening a regulation from a light rail vehicle.
- c) People at light rail stops. The provision includes a non-exhaustive list of examples: conduct of people at light rail stops, the authority of police and authorised people to direct people contravening a regulation to leave a light rail stop, and the authority of police to remove a person contravening a regulation from a light rail stop.

These matters are currently recognised for other public passenger services and affect public safety, accessibility of the service and support matters of compliance and enforcement.

This provision is in addition to the standard regulation making power contained in section 126 of the Public Passenger Services Act.

Clause 6 **New section 109**

This clause provides that Part 8A (Additional public passenger vehicle insurance) in the Public Passenger Services Act does not apply to a light rail service. This part has been disapplied to the light rail service as the contractual arrangements supporting the operation of the light rail service provide the necessary requirements in respect to the holding of appropriate insurances. The *Road Transport (Third-Party Insurance) Act 2008* requires all light rail vehicles to have compulsory third party insurance.

Clause 7 **Unauthorised public passenger services**
Section 125 (2), note 1

Section 125 contains an offence for using a vehicle for the transport of passengers for fare or other consideration along a road or road related area unless authorised. This clause is a technical amendment and is consequential on the changes made by clause 5 [new section 27B].

Clause 8 **Dictionary, note 3**

This clause amends note 3 to the dictionary to point to the definitions of *light rail*, *light rail vehicle* and *rail transport operator* in the *Road Transport (General) Act 1999*.

Clause 9 **Dictionary, new definitions**

This clause inserts new definitions in the dictionary of *light rail service* and *light rail service operator*. This amendment is consequential on the changes made by clause 5 [new section 27A].

Clause 10 **Dictionary, definition of *public passenger vehicle***

This clause replaces the current definition of *public passenger vehicle* with a definition that includes existing public passenger vehicles and a light rail vehicle.

Part 3 **Road Transport (Public
Passenger Services)
Regulation 2002**

This part of the Bill amends the *Road Transport (Public Passenger Services) Regulation 2002* (the Public Passenger Services Regulation) to regulate the operation of light rail services as a public passenger service, in particular, obligations on light rail service operators, ticketing and conduct on light rail vehicles at light rail stops.

Clause 11 **Offences against regulation—application of Criminal
Code etc
Section 4A, note 1**

This clause clarifies that other legislation applies in relation to offences against the Public Passenger Services Regulation. This clause inserts new dot points in section 4A, note 1, indicating that the Criminal Code, Chapter 2 applies to new sections 50A, 50B, and new Chapter 3AA.

Clause 12 **Section 4B, heading**

This clause is a technical amendment that amends the heading of section 4B and is consequential on the changes in clause 13.

Clause 13 **Section 4B**

This clause is a technical amendment that clarifies that the meaning of *regulated service* in section 4B applies across the Public Passenger Services Regulation.

Clause 14 **Section 50**

This clause substitutes existing provision 50 with three new provisions to align the ticketing provisions for buses with the ticketing provisions for light rail services. Light rail will be integrated with the ticketing system used in ACTION buses - enabling convenient connections for commuters between light rail and bus services.

**Entitlement to use concession bus ticket
Section 50**

A person may use a *concession bus ticket* to travel on a bus service. This provision defines a *concession bus ticket* and when a person is entitled to use a *concession bus ticket*.

A *concession bus ticket* includes concession fares, school student fares and tertiary student fares. Certain persons are exempt from paying fares on bus services. Details are contained in the *Road Transport (Public Passenger Services) Regular Route Services Maximum Fares Determination 2017* (DI2017-311).

Application for concession bus ticket
New section 50A

This provision makes it a strict liability offence for a person to provide information in an application for a *concession bus ticket* that is false or misleading, or omit information that because of its omission makes the information provided false or misleading. The maximum penalty for this offence is 10 penalty units.

Noting that the light rail service will utilise the same ticketing system as ACTION buses, a person cannot be prosecuted under this provision and the corresponding provision [new section 70AP] for light rail services.

Use concession bus ticket when not entitled
New section 50B

A person may use a *concession bus ticket* to travel on a bus service. A *concession bus ticket* is available to the following people:

- holder of a:
 - a card issued by Centrelink or the Department of Veteran’s Affairs commonly known as a “Pensioner Concession Card”
 - card issued by Centrelink commonly known as a “Health Care Card”
 - Department of Veteran’s Affairs Gold Card
 - Seniors Card issued by any Australian State or Territory
 - ACT Services Card
 - Valid photographic student identification card issued by an Australian higher education institution, indicating that the person is a full time student
- ACT school student who is a primary school student attending an ACT primary school, a student registered for home schooling under the *Education Act 2004* or a student who holds an appropriate student card identifying the person as a secondary school student attending an ACT school
- A school student who holds an appropriate student card identifying the person as an Australian primary school student or an Australian secondary student.

This provision makes it a strict liability offence for a person to travel on a bus service on a *concession bus ticket* when they are not entitled to a *concession bus ticket*. The maximum penalty for this offence is five penalty units.

This provision makes it a strict liability offence for a person to refuse to produce evidence of their entitlement to a *concession bus ticket* when required by a police officer or authorised person. The maximum penalty for this offence is five penalty units.

This provision makes it a strict liability offence for a person to produce evidence of their entitlement to a *concession bus ticket* to a police officer or authorised person that is false or misleading, or omit information that because of its omission makes the evidence of entitlement provided false or misleading. The maximum penalty for this offence is 10 penalty units.

This provision makes it a strict liability offence for a person to make a statement to a police officer or authorised person regarding their entitlement to a *concession bus ticket* that is false or misleading, or omit information that because of its omission makes the evidence of entitlement provided false or misleading. The maximum penalty for this offence is 10 penalty units.

Noting that the light rail service will utilise the same ticketing system as ACTION buses, a person cannot be prosecuted under this provision and the corresponding provision [new section 70AQ] for light rail services for a single journey. A person also cannot be prosecuted for each offence under this provision in a single journey.

Clause 15 New chapter 3AA

This clause inserts a new chapter into the Public Passenger Services Regulation, entitled Light rail services, that covers obligations on light rail service operators, ticketing for the light rail service and conduct in light rail vehicles and at light rail stops.

Light rail service operators New part 3AA.1

A new part is being inserted into the Public Passenger Services Regulation for light rail services that creates obligations on light rail service operators in relation to notifiable occurrences, licensing requirements for light rail drivers and other persons providing services in relation to driving light rail services, records of light rail drivers and other persons providing services in relation to driving light rail services, signs about security cameras and lost property.

Definitions—pt 3AA.1 New section 70AA

This provision creates new definitions of *light rail driver*, *light rail driving assessor* and *light rail driving instructor*.

Notifiable occurrence involving light rail vehicle New section 70AB

To operate a light rail service in the ACT, one must be accredited under the Rail Safety National Law. The Rail Safety National Law was adopted in the ACT in 2014 and provides a comprehensive regulatory framework including reporting of notifiable occurrences. Notifiable occurrences include incidents that involve death, serious injury or significant property damage.

This provision makes it a strict liability offence for a light rail service operator to not notify the road transport authority of any notifiable occurrences under the Rail Safety National Law at the same time as notification is made to the Office of the National Rail Safety Regulator. The maximum penalty for this offence is 20 penalty units.

Light rail driver etc to hold driver licence
New section 70AC

This provision makes it a strict liability offence for a light rail service operator to fail to take reasonable steps to ensure that every driver of a light rail vehicle, light rail driving assessor and light rail driving instructor holds a full car licence or a licence of a higher class. The maximum penalty for this offence is 20 penalty units.

Light rail driver records
New section 70AD

This provision makes it a strict liability offence for a light rail service operator to fail to keep a *light rail driver record* for each light rail driver for a light rail service and take reasonable steps to ensure each *light rail driver record* is up-to-date.

This provision makes it a strict liability offence for a person who is or has been a light rail service operator to fail to:

- keep each *light rail driver record* for at least 2 years after the date on which the driver last drove a light rail vehicle for a light rail service
- provide, on request, a *light rail driver record* to the road transport authority, a police officer or authorised person.

The maximum penalty for each of these offences is 10 penalty units.

This provision inserts a definition of *light rail driver record*. A *light rail driver record* includes a light rail driver's full name, home address, date of birth, driver licence number and expiry date and days and times when a light rail vehicle was driven by the light rail driver.

This provision is comparable to those for other public passenger services in the ACT.

Light rail driving instructor records
New section 70AE

This provision makes it a strict liability offence for a light rail service operator to fail to keep a *light rail driving instructor record* for each light rail driving instructor for a light rail service and take reasonable steps to ensure each *light rail driving instructor record* is up-to-date.

This provision makes it a strict liability offence for a person who is or has been a light rail service operator to fail to:

- keep each *light rail driving instructor record* for at least 2 years after the date on which an instructor last instructed a driver for a light rail service
- provide, on request, a *light rail driving instructor record* to the road transport authority, a police officer or authorised person.

The maximum penalty for each of these offences is 10 penalty units.

This provision inserts a definition of *light rail driving instructor record*. A *light rail driving instructor record* includes a light rail driving instructor's full name, home address, date of birth, driver licence number and expiry date and days and times when a light rail driver was instructed by the light rail driving instructor.

This provision is comparable to those for other public passenger services in the ACT.

Light rail driving assessor records
New section 70AF

This provision makes it a strict liability offence for a light rail service operator to fail to keep a *light rail driving assessor record* for each light rail driving assessor for a light rail service and take reasonable steps to ensure each *light rail driving assessor record* is up-to-date.

This provision makes it a strict liability offence for a person who is or has been a light rail service operator to fail to:

- keep each *light rail driving assessor record* for at least 2 years after the date on which an assessor last assessed a driver for a light rail service
- provide, on request, a *light rail driving assessor record* to the road transport authority, a police officer or authorised person.

The maximum penalty for each of these offences is 10 penalty units.

This provision inserts a definition of *light rail driving assessor record*. A *light rail driving assessor record* includes a light rail driving assessor's full name, home address, date of birth, driver licence number and expiry date and days and times when a light rail driver was assessed by the light rail driving assessor.

This provision is comparable to those for other public passenger services in the ACT.

Road transport authority to share information
New section 70AG

This provision compels the road transport authority to share information with a light rail service operator in respect to any suspension or cancellation of a driver licence of a *light rail driver*, *light rail driving instructor* or *light rail driving assessor* when provided with a *light rail driver record*, *light rail driver assessor record* or *light rail driving instructor record* by the light rail service operator.

Signs about security cameras in light rail vehicles and at light rail stops
New section 70AH

Security cameras will operate on the light rail vehicles and light rail stops. A light rail service operator is responsible for these cameras.

This provision makes it a strict liability offence for a light rail service operator not to place a sign in a light rail vehicle informing passengers and the public that they may be under video surveillance when in or near a light rail vehicle. The sign must be located in a place that can be easily seen by a person who may be under video surveillance. The maximum penalty for this offence is 10 penalty units.

This provision makes it a strict liability offence for a light rail service operator not to place a sign at a light rail stop informing passengers and the public that they may be under video surveillance when at a light rail stop. The sign must be located in a place that can be easily seen by a person who may be under video surveillance. The maximum penalty for this offence is 10 penalty units.

Lost property in light rail vehicles and at light rail stops
New section 70AI

This provision makes it a strict liability offence for a light rail service operator to fail to ensure that any item of lost property found in a light rail vehicle or at a light rail stop is given to its owner or if the owner cannot be identified is held for a reasonable time in a place where the owner can collect the property. The maximum penalty for this offence is five penalty units.

Light rail tickets
New part 3AA.2

A new part is being inserted into the Public Passenger Services Regulation that sets out the ticketing requirements for light rail services. Light rail will be integrated with the ticketing system used in ACTION buses - enabling convenient connections for commuters between light rail and bus services. These provisions align the ticketing provisions for light rail services with the ticketing provisions for buses.

Meaning of *light rail ticket*—pt 3AA.2
New section 70AJ

This provision creates a definition of *light rail ticket*. Tickets for the light rail service will be issued by the road transport authority not the light rail service operator. This enables the same ticketing system to be adopted for light rail and ACTION bus services.

Validity of light rail tickets
New section 70AK

This provision establishes when a ticket is valid for travel on a light rail service. Two types of tickets will be available – a cash ticket purchased from ticket machines on a light rail stop or an electronic ticket (currently, a myway card) that must have a journey assigned to it using the device provided on the light rail stops for that purpose. An electronic ticket that is not assigned a journey using the provided device is not a valid ticket, neither is a ticket that is transferred in contravention of new section 70AM.

Valid light rail ticket required for travel
New section 70AL

This provision makes it a strict liability offence for a person to travel, on a light rail service without a valid ticket. The maximum penalty for this offence is five penalty units.

Light rail ticket not transferable
New section 70AM

This provision makes it a strict liability offence for a person to transfer or offer to transfer a *light rail ticket* to someone else. This does not include tickets bought for another person or transfers authorised by the Territory, for example, a customer is transferring between light rail services or between a light rail service and ACTION buses within 90 minutes of the customer first validating their ticket on the first bus or light rail service. The maximum penalty for this offence is five penalty units.

Damaged or changed light rail ticket not to be used
New section 70AN

This provision makes it a strict liability offence for a person to use a valid *light rail ticket* that is damaged, defaced or changed. The maximum penalty for this offence is five penalty units.

Entitlement to use concession light rail ticket
New section 70AO

A person may use a *concession light rail ticket* to travel on a light rail service. This provision defines a *concession light rail ticket* and when a person is entitled to use a *concession light rail ticket*.

A *concession light rail ticket* includes concession fares, school student fares and tertiary student fares. Persons who travel for free on ACTION buses will travel for free on light rail services. Details are contained in the *Road Transport (Public Passenger Services) Regular Route Services Maximum Fares Determination 2017* (DI2017-311).

Application for concession light rail ticket
New section 70AP

This provision makes it a strict liability offence for a person to provide information in an application for a *concession light rail ticket* that is false or misleading, or omit information that because of its omission makes the information provided false or misleading. The maximum penalty for this offence is 10 penalty units.

This provision is consistent with requirements for persons travelling on bus services.

Noting that the light rail service will utilise the same ticketing system as ACTION buses, a person cannot be prosecuted under this provision and the corresponding provision [new section 50A] for bus services.

Use concession light rail ticket when not entitled
New section 70AQ

A person may use a *concession light rail ticket* to travel on a light rail service. A *concession light rail ticket* is available to the following people:

- holder of a:
 - a card issued by Centrelink or the Department of Veteran’s Affairs commonly known as a “Pensioner Concession Card”
 - card issued by Centrelink commonly known as a “Health Care Card”
 - Department of Veteran’s Affairs Gold Card
 - Seniors Card issued by any Australian State or Territory
 - ACT Services Card
 - Valid photographic student identification card issued by an Australian higher education institution, indicating that the person is a full time student
- ACT school student who is a primary school student attending an ACT primary school, a student registered for home schooling under the *Education Act 2004* or a student who holds an appropriate student card identifying the person as a secondary school student attending an ACT school
- A school student who holds an appropriate student card identifying the person as an Australian primary school student or an Australian secondary student.

This provision makes it an offence for a person to travel on a light rail service on a *concession light rail ticket* when they are not entitled to a *concession light rail ticket*. The maximum penalty for this offence is five penalty units.

This provision makes it an offence for a person to refuse to produce evidence of their entitlement to a *concession light rail ticket* when required by a police officer or authorised person. The maximum penalty for this offence is five penalty units.

This provision makes it an offence for a person to produce evidence of their entitlement to a *concession light rail ticket* to a police officer or authorised person that is false or misleading, or omit information that because of its omission makes the evidence of entitlement provided false or misleading. The maximum penalty for this offence is 10 penalty units.

This provision makes it an offence for a person to make a statement to a police officer or authorised person regarding their entitlement to a *concession light rail ticket* that is false or misleading, or omit information that because of its omission makes the evidence of entitlement provided false or misleading. The maximum penalty for this offence is 10 penalty units.

Noting that the light rail service will utilise the same ticketing system as ACTION buses, a person cannot be prosecuted under this provision and the corresponding provision [new section 50B] for bus services for a single journey. A person also cannot be prosecuted for each offence under this provision in a single journey.

Inspection of light rail ticket
New section 70AR

This provision permits a police officer or authorised person to require a person to produce their *light rail ticket* for inspection in the following circumstances:

- a) the person is in a light rail vehicle
- b) the person has just got off a light rail vehicle
- c) the person is at a light rail stop, and the police officer or authorised person believes on reasonable grounds that the person is at the light rail stop because the person has got off a light rail vehicle
- d) the person is at a place declared by the Minister under section 70AS.

This provision makes it a strict liability offence for a person not to produce their ticket as required. The maximum penalty for this offence is five penalty units.

Minister may declare light rail ticket required at certain place
New section 70AS

This provision provides the Minister with the power to declare a place, connected to a light rail service, where a person is required to have a valid *light rail ticket*. The declaration is a notifiable instrument and must include:

- a description of the place
- the circumstances in which a valid *light rail ticket* is required
- the reasons for the declaration
- and
- when the declaration operates.

This provision may be used in the following situations:

- there are high levels of fare evasion at a particular light rail stop or at particular times of the day and other administrative processes (for example, increasing the presence of authorised persons, education campaigns) have been unsuccessful in addressing the issue
- special events
- where large crowds are expected.

Light rail passengers and people at light rail stops
New part 3AA.3

A new part is inserted into the Public Passenger Services Regulation that sets out the requirements for conduct of people in a light rail vehicle or at a light rail stop.

Behaviour that interferes with comfort or safety
New section 70AT

This provision makes it a strict liability offence for a person in a light rail vehicle to put their feet on a light rail vehicle seat or obstruct a light rail vehicle seat. The maximum penalty for this offence is five penalty units.

This provision makes it a strict liability offence for a person in a light rail vehicle or at a light rail stop to spit or use a wheeled recreational device (for example, a skateboard). The maximum penalty for this offence is five penalty units.

This provision makes it a strict liability offence for a person in a light rail vehicle or at a light rail stop to use offensive language, behave in an offensive way or behave in an aggressive or menacing way. The maximum penalty for this offence is 10 penalty units. Such actions by passengers raise concerns for driver and public safety.

This provision makes it an offence for a person in a light rail vehicle or at a light rail stop to unreasonably interfere with the comfort or safety of someone else. The maximum penalty for this offence is 10 penalty units. This offence is intending to cover behaviours not otherwise covered in this provision that interfere with the comfort and safety of other people on light rail vehicles or at light rail stops.

Inconvenient or dangerous items in light rail vehicle
New section 70AU

This provision gives authorised persons and police officers the power to direct a person who brings an *inconvenient or dangerous item* onto a light rail vehicle to place the item in a *storage area* in the light rail vehicle or remove the item from the vehicle. It is a strict liability offence not to comply with the direction of an authorised person or police officer under this section. The maximum penalty for this offence is five penalty units.

This offence does not apply to anything that is assisting a person with a disability.

An item is considered to be an *inconvenient or dangerous item*, if due to its size or nature it cannot be carried on a light rail vehicle without inconvenience or danger to someone else. The Territory and the light rail service operator will provide guidance to passengers on what items are considered to be inconvenient or dangerous items to be carried on a light rail vehicle.

Obstructing light rail vehicle door
New section 70AV

This provision makes it a strict liability offence for a person to obstruct a light rail vehicle door. The maximum penalty for this offence is five penalty units.

Getting on and off light rail vehicle
New section 70AW

This clause makes it a strict liability offence to get on or off a light rail vehicle that is moving, or is at a place other than a light rail stop or through the emergency exit or roof hatch. The maximum penalty for this offence is five penalty units. This offence does not apply when a

person has been lawfully directed to get on or off a light rail vehicle in any of these circumstances or there is a sudden or extraordinary emergency.

Passenger not allowed on certain parts of light rail vehicle
New section 70AX

This provision makes it a strict liability offence for a person to enter the driver's cab of a light rail vehicle. The maximum penalty for this offence is five penalty units.

This provision makes it a strict liability offence for a person in a light rail vehicle, while a light rail vehicle is moving, to travel in a part of a light rail vehicle not designed to carry passengers or in a part of the light rail vehicle designed to carry passengers in a way for which that part is not designed (for example, sitting on the floor). The parts of a light rail vehicle not designed to carry passengers includes the roof, steps, footboard and exterior surfaces of the vehicle. The maximum penalty for this offence is five penalty units.

Throwing objects in or from light rail vehicle
New section 70AY

This provision makes it a strict liability offence for a person to throw anything in or from a light rail vehicle. The maximum penalty for this offence is five penalty units.

Intentionally throwing an object at, dropping an object on, or placing an object in the path of, a light rail vehicle is an offence under section 28A of the *Crimes Act 1900*.

Vacating designated seats in light rail vehicle
New section 70AZ

This provision makes it a strict liability offence for a person to occupy or continue to occupy a seat set aside for a designated person when a designated person is standing or indicates they wish to use the seat. A designated person includes an older person, a person with a disability and a pregnant person. Designated seats in a light rail vehicle will be clearly signposted. The maximum penalty for this offence is five penalty units.

Liquor in light rail vehicle or at light rail stop
New section 70AAA

This provision makes it a strict liability offence for a person to consume liquor or low-alcohol liquor or be in the possession of an open container of liquor or low-alcohol liquor in a light rail vehicle or at a light rail stop. Consistent with possession of alcohol offences in the *Liquor Act 2010*, a substance is presumed to be liquor or low-alcohol liquor if it is in a container and a label or other mark on a container describes the content as liquor or low-alcohol liquor. The maximum penalty for this offence is five penalty units.

This offence is not intended to apply in circumstances where a person has been out for a meal and is carrying the remnants of a bottle of wine purchased to enjoy with the meal.

It is recognised that people are generally on notice concerning where alcohol may be consumed. For a person to commit an offence under this provision they would be required to be actively involved in the consumption of liquor or the possession of liquor. Noting the

potential risks associated with consumption or possession of alcohol in a light rail vehicle, it is considered appropriate that this offence be one of strict liability. However, as the consumption of liquor is lawful in many circumstances, this is reflected in the maximum penalty of five penalty units being applied.

A separate provision has been included in the Public Passenger Services Regulation to enable the light rail service operator to be authorised to deal with this behaviour.

Seizure of liquor in light rail vehicle or at light rail stop
New section 70AAB

Consistent with provisions in the *Liquor Act 2010*, this provision gives an authorised person or police officer the power to seize liquor or low-alcohol liquor in circumstances where they have told the person why they are seizing the liquor. If the person from whom the liquor was seized challenges the grounds relied on to seize the liquor, the police officer or authorised person must not dispose of the liquor and must proceed to either caution or charge the person. When the liquor has been disposed of, no proceedings may be commenced in relation to the liquor, nor may a caution be issued. This is intended to allow police and authorised persons to deal expeditiously with consumption and possession of alcohol in light rail vehicles or at light rail stops, without commencing proceedings or issuing an infringement notice.

A separate provision has been included in the Public Passenger Services Regulation to enable the light rail service operator to be authorised to deal with this behaviour.

Eating or drinking in light rail vehicle
New section 70AAC

This provision makes it a strict liability offence for a person to eat or drink in a light rail vehicle contrary to a sign in the light rail vehicle indicating when a person may or may not eat or drink in a light rail vehicle. This offence does not apply when the person is eating or drinking for medical reasons. The maximum penalty for this offence is five penalty units. It is not intended that this offence be applied to people drinking water or for mothers feeding their children.

Animal in light rail vehicle
New section 70AAD

This provision provides the Minister with the power to determine the circumstances in which a light rail service operator must or must not allow an animal on a light rail vehicle and the ways in which an animal must or must not be carried. Determination will be via a notifiable instrument.

This provision makes it a strict liability offence for a person to travel on a light rail vehicle with an animal that is not confined in a box, basket or other container or carried as otherwise allowed under a determination. This offence does not apply to an animal that is a guide-dog or other animal assisting a person with a disability or an animal that is being trained to assist a person with a disability. The maximum penalty for this offence is five penalty units.

Lost property found on light rail vehicle or at light rail stop
New section 70AAE

This provision makes it a strict liability offence for a person to find something that appears to be lost in a light rail vehicle or at a light rail stop and not give the thing to its owner, a light rail service operator, police officer or authorised person. The maximum penalty is five penalty units.

Removing light rail property
New section 70AAF

This provision makes it a strict liability offence for a person to remove property belonging to a light rail service operator, without the operator's consent, from a light rail vehicle or a light rail stop. The maximum penalty for this offence is 10 penalty units.

This provision makes it a strict liability offence for a person to remove property belonging to the Territory, without the Territory's consent, from a light rail vehicle or a light rail stop. The maximum penalty for this offence is 10 penalty units.

Property includes equipment, infrastructure, furniture, signs and fittings.

Separate offences are required in the Public Passenger Services Regulation to enable the light rail service operator to take action quickly to address this matter. Serious offences will be referred to police and prosecuted under existing offences in the Crimes Act.

Damaging light rail property
New section 70AAG

This provision makes it a strict liability offence for a person to damage light rail property that belongs to a light rail service operator without the consent of the light rail operator. The maximum penalty for this offence is 10 penalty units.

This provision makes it a strict liability offence for a person to damage light rail property that belongs to the Territory without the consent of the Territory. The maximum penalty for this offence is 10 penalty units.

Light rail property includes infrastructure forming part of light rail, devices and equipment used in relation to issuing and assigning light rail tickets and signs, furniture and fittings made available for light rail service passengers.

Separate offences are required in the Public Passenger Services Regulation to enable the light rail service operator to take action quickly to address this matter. Serious offences will be referred to police and prosecuted under existing offences in the Crimes Act.

Interfering with security camera or recording
New section 70AAH

This provision makes it a strict liability offence for a person to interfere with a security camera fitted to a light rail vehicle or located at a light rail stop. The maximum penalty is 20 penalty units.

This provision makes it a strict liability offence for a person to change or otherwise interfere with a recording made by a security camera fitted to a light rail vehicle or located at a light rail stop. The maximum penalty is 20 penalty units.

This provision is consistent with existing provisions for other public passenger services.

Interfering with emergency equipment
New section 70AAI

This provision makes it a strict liability offence for a person to apply an emergency brake on a light rail vehicle or use another emergency device fitted to a light rail vehicle. The maximum penalty for this offence is 20 penalty units.

This provision makes it a strict liability offence for a person to use an emergency device at a light rail stop and the device belongs to the light rail service operator or the Territory. The maximum penalty for this offence is 20 penalty units.

This provision makes it a strict liability offence for a person to interfere with an emergency device at a light rail stop or interferes with the correct operation of an emergency device at a light rail stop. The maximum penalty for this offence is 20 penalty units.

Emergency device includes an emergency door handle, an emergency help point, an emergency glass breakage device or a fire extinguisher.

The defences in the Criminal Code apply to these offences, in particular, sudden or extraordinary emergency in section 41 and lawful direction in section 43.

Interfering with light rail vehicle equipment
New section 70AAJ

This provision makes it a strict liability offence for a person to interfere with equipment attached to, or forming part of, a light rail vehicle or the correct operation of equipment attached to, or forming part of, a light rail vehicle. The maximum penalty for this offence is 10 penalty units.

Littering
New section 70AAK

This provision makes it a strict liability offence for a person to deposit litter in a light rail vehicle or at a light rail stop. The maximum penalty is five penalty units. This offence does not apply when the litter is placed in a container provided for the collection of rubbish at a light rail stop. Light rail vehicles will not have containers for the collection of rubbish.

This provision makes it a strict liability offence for a person to deposit anything that may endanger a person or property in a light rail vehicle or at a light rail stop. The maximum penalty is five penalty units.

Separate offences are required in the Public Passenger Services Regulation to enable the light rail service operator to take action to address this behaviour in a timely manner to protect the safety of the public and protect property.

Police officer or authorised person—power to direct person to get off, or not to get on, light rail vehicle
New section 70AAL

This provision gives a police officer or authorised person the power to direct a person to leave a light rail vehicle if the police officer or authorised person believes on reasonable grounds that:

- The person is committing, or has just committed an offence under Parts 3AA.2 or 3AA.3 of the Public Passenger Services Regulation.
- The person's clothing may soil or damage the light rail vehicle or the clothing of someone else in the light rail vehicle.
- The person is carrying an item that may soil or damage the light rail vehicle or an item of someone else in the light rail vehicle.
- The person is carrying goods that cannot, because of their size or nature, be carried in a light rail vehicle without inconvenience or danger to someone else on the light rail vehicle. This does not extend to items used by a person with a disability to alleviate the effect of the disability.
- The person is under the influence of liquor or a drug and is causing, or likely to cause, a nuisance or annoyance to someone else.

This provision makes it a strict liability offence to fail to comply with a direction given by a police officer or authorised person on the above grounds. The maximum penalty for this offence is five penalty units.

Police officer—power to remove person from light rail vehicle
New section 70AAM

This provision gives a police officer the power to remove a person from a light rail vehicle if the person has been given a lawful direction to leave a light rail vehicle and has failed to comply with that lawful direction.

Police officer or authorised person—power to direct person to leave light rail stop
New section 70AAN

This provision gives a police officer or authorised person the power to direct a person to leave a light rail stop if the police officer or authorised person believes on reasonable grounds that:

- The person is committing, or has just committed an offence against:

- section 70AT (Behaviour that interferes with comfort or safety)
- section 70AAA (Liquor in light rail vehicle or at light rail stop)
- section 70AAF (Removing light rail property)
- section 70AAG (Damaging light rail property)
- section 70AAH (Interfering with security camera or recording)
- section 70AAI (Interfering with emergency equipment)
- section 70AAK (Littering).
- The person is under the influence of liquor or a drug and is causing, or likely to cause, a nuisance or annoyance to someone else.

This provision makes it a strict liability offence to fail to comply with a direction given by a police officer or authorised person on the above grounds. The maximum penalty for this offence is five penalty units.

Police officer—power to remove person from light rail stop
New section 70AAO

This provision gives a police officer the power to remove a person from a light rail stop if the person has been given a lawful direction to leave a light rail stop and has failed to comply with that lawful direction.

Clause 16 Driver authority card to be displayed or shown
Section 307 (1)

This clause is a technical amendment consequential on the changes made by clause 17.

Clause 17 Section 307 (2)

This clause replaces existing subsection (2) to state the circumstances when a driver of a public passenger vehicle is not required to display a public vehicle driver authority card. This amendment is consequential on the fact that light rail drivers will not be issued with public vehicle licences or public vehicle driver authority cards.

Clause 18 Meaning of *service authority* for ch 8
Section 320, definition of *service authority*, paragraph (a)

This clause is a technical amendment and is consequential on the light rail service not being accredited by the Territory under the public passenger services legislative framework.

Clause 19 Dictionary, note 4

This clause amends note 4 to the dictionary to point to *light rail*, *light rail vehicle* and *road related area* as terms defined in the *Road Transport (General) Act 1999*.

Clause 20 **Dictionary, definition of *accreditation***

This clause is a technical amendment consequential on the changes made by clauses 5, 12 and 13.

Clause 21 **Dictionary, definition of *bus ticket***

This clause makes an amendment to the definition of *bus ticket* consequential on the changes made by clauses 14 and 15.

Clause 22 **Dictionary, new definitions**

This clause inserts new definitions of *concession bus ticket*, *concession light rail ticket*, *light rail driver*, *light rail driving assessor*, *light rail driving instructor*, *light rail stop*, *light rail ticket* and *low-alcohol liquor* and is consequential on the changes made by clauses 14 and 15.

This clause also inserts a definition of *light rail stop*.

Clause 23 **Dictionary, definition of *regulated service***

This clause inserts a new definition of *regulated service* by reference to section 4B and is consequential on changes made by clauses 12, 13 and 20.

Schedule 1 **Consequential amendments**

Schedule 1 to the Bill makes consequential amendments to the following legislation:

- *Domestic Animals Act 2000*
- *Liquor Act 2010*
- *Road Transport (Driver Licensing) Act 1999*
- *Road Transport (Driver Licensing) Regulation 2000*
- *Road Transport (General) Act 1999*
- *Road Transport (Road Rules) Regulation 2017*
- *Road Transport (Safety and Traffic Management) Regulation 2017*
- *Road Transport (Vehicle Registration) Regulation 2000*
- *Workers Compensation Act 1951*
- *Working with Vulnerable People (Background Checking) Act 2011*.

Part 1.1 **Domestic Animals Act 2000**

Section 1.1 **Dictionary, definition of *public place*, note**

This section makes a technical amendment to a note describing a public passenger vehicle under the *Domestic Animals Act 2000* to include a light rail vehicle and is consequential on the changes made to the definition of *public passenger vehicle* by clause 10.

Part 1.2 Liquor Act 2010

Section 1.2 New section 199 (1) (b) (iia)

Section 1.3 New section 199 (1) (b) (iii) (BA)

Section 1.4 New section 199 (5)

Under section 199 it is a strict liability offence for a person to consume liquor at certain public places. This includes bus stations, bus interchanges and places within 50 metres of a bus interchange and bus station. These clauses extend the application of section 199 to light rail stops and areas within 50 metres of a light rail stop and includes a definition of *light rail stop* by reference to the definition of that term in the *Road Transport (Public Passenger Services) Regulation 2002*, dictionary.

Section 1.5 New section 200 (1) (b) (iia)

Section 1.6 New section 200 (1) (b) (iii) (BA)

Section 1.7 Section 200 (4), new definition of *light rail stop*

Under section 200 it is an offence for a person to possess an open container of liquor or low-alcohol liquor with the intent of consuming liquor at certain public places. This includes bus stations, bus interchanges and places within 50 metres of a bus interchange and bus station. This section extends the application of section 200 to light rail stops and areas within 50 metres of a light rail stop and includes a definition of *light rail stop* by reference to the definition of that term in the *Road Transport (Public Passenger Services) Regulation 2002*, dictionary.

**Part 1.3 Road Transport (Driver
Licensing) Act 1999**

Section 1.8 Dictionary, definition of *public vehicle*

This amendment replaces the definition of *public vehicle* to clarify that a light rail vehicle is not a public passenger vehicle for the purposes of the *Road Transport (Driver Licensing) Act 1999*. This amendment is required to ensure that provisions in that Act and the *Road Transport (Driver Licensing) Regulation 2000* about public vehicle licences and public vehicle driver authority cards do not apply to light rail drivers.

**Part 1.4 Road Transport (Driver
Licensing) Regulation 2000**

Section 1.9 Section 64A (1), note

This is a technical amendment and is consequential on the changes made at clause 17.

Section 1.10 Section 98A

Section 31 (1) of the *Road Transport (Driver Licensing) Act 1999* provides that a person must not drive a motor vehicle unless they hold an Australian driver licence that authorises them to drive that kind of motor vehicle or is exempted by regulation from the requirement to hold an Australian driver licence.

A light rail driver is not required to hold a driver licence that authorises the person to drive a light rail vehicle provided the light rail driver holds a full car licence or a licence of a higher class. This ensures that the driver of a light rail vehicle has demonstrated the knowledge of road rules required to drive a vehicle in the road environment, in which light rail vehicles will operate.

This amendment includes a reference to a licence of a higher class than a full car licence.

Part 1.5 **Road Transport (General)
Act 1999**

Section 1.11 **Section 10 (1) (d)**

This is a technical amendment that removes the term accredited before rail transport operator in this section to ensure consistent use of this term across the road transport legislation.

Section 1.2 **Section 10 (2)**

This amendment omits the definition of accredited rail transport operator from this section and is consequential on the changes made by 1.11.

Part 1.6 **Road Transport (Offences) Regulation 2005**

Section 1.13 **Schedule 1, Part 1.11, items 67 to 72**

These amendments update the provision and short descriptions for offences relating to concession bus tickets and are consequential on the changes made by clause 14.

Part 1.7 **Road Transport (Road Rules)
Regulation 2017**

Section 1.14 **Dictionary, new definition of *light rail stop***

This amendment includes a definition of *light rail stop* by reference to the definition of this term in the *Road Transport (Public Passenger Services) Regulation 2002*, dictionary.

Section 1.15 **Dictionary, definition of *tram stop***

This amendment is a technical amendment to explicitly include a light rail stop in the definition of *tram stop*.

Part 1.8 **Road Transport (Safety and
Traffic Management)
Regulation 2017**

Section 1.16 **New section 27 (1) (ba)**
Section 1.17 **Section 27 (2), new definitions**

Section 27 provides police officers and authorised persons with the power to remove unattended vehicles from a road or road related area to a retention area if the vehicle is in a bus lane, clearway or a transit lane. This amendment extends this power to a tram lane, tram tracks or tramway (the light rail track). These terms are defined by reference to the *Road Transport (Road Rules) Regulation 2017*. A tram is defined in the *Road Transport (Road Rules) Regulation 2017* as including a light rail vehicle.

Part 1.9 **Road Transport (Vehicle
Registration) Regulation 2000**

Section 1.18 **Section 32AA (1), new note**

Section 32AA sets out requirements in relation to deciding applications for registrable vehicles being used as public passenger vehicles. This amendment inserts a new note to section 32AA (1) to clarify that a light rail vehicle is not a registrable vehicle.

Section 1.19 **Section 84 (1) (g), new note**

Section 84 sets out when the road transport authority may cancel or suspend the registration of a registered vehicle. This amendment inserts a new note to Section 84 (1) (g) to clarify that a light rail vehicle is not a registrable vehicle.

Part 1.10 **Workers Compensation Act 1951**

Section 1.20 **Section 74 (5)**

This amendment substitutes the existing list of public passenger vehicles for which a person can make a claim for travel expenses with a definition of *public passenger vehicle* by reference to the definition of this term in the Public Passenger Services Act. It also makes an amendment to the term *public transport*. These amendments are consequential on the change to the definition of *public passenger vehicle* in clause 10.

Part 1.11 **Working with Vulnerable People
(Background Checking) Act 2011**

Section 1.21 **Schedule 1, section 1.20 (2), notes 1 and 2**
Section 1.22 **Schedule 1, new sections 1.20 (3) and (4)**

These amendments expand the scope of transport related regulated activities to include light rail drivers, light rail driving assessors, light rail driving instructors and staff of the light rail service operator who will be appointed under the *Road Transport (General) Act 1999* to exercise functions and powers under the road transport legislation. These amendments align light rail drivers with drivers of other public passenger vehicles.

Staff of the light rail service operator will be interacting with members of the public when exercising functions and powers under the road transport legislation in relation to the light rail service (for example, inspection of tickets). As the light rail service operator is a private entity it is appropriate to require these people to also hold a working with vulnerable people registration. This is an important threshold in protecting children and vulnerable people using a light rail service.

Schedule 2 **Other amendments —Rail
Safety National Law (ACT)
Act 2014**

Section 2.1 **Section 7 (2) (b)**

This amendment excludes the reference to ‘6 sitting days’ in the *Legislation Act 2001* as the timeframe required to table national regulations under the Rail Safety National Law in the Legislative Assembly, and instead applies a timeframe of 20 sitting days to ensure that there is sufficient time to identify and present national amendment regulations to the Legislative Assembly.

Section 2.2 **New Part 11**

The Rail Safety National Law provides a national rail safety regulation scheme, including a national rail safety regulator and a national rail safety investigator. The Rail Safety National Law is set out in the *Rail Safety National Law (South Australia) Act 2012* (SA). This Law is adopted in the *Rail Safety National Law (ACT) Act 2014*.

Section 6 of the *Rail Safety National Law (ACT) Act 2014* applies the Rail Safety National Law set out in the *Rail Safety National Law (South Australia) Act 2012* (SA), schedule, as if it were an ACT law called the Rail Safety National Law (ACT).

National regulations are made under section 264 of the *Rail Safety National Law (South Australia) Act 2012* and notified on the NSW legislation website.

Amendments to the Rail Safety National Law, once agreed by Ministers sitting as the Transport and Infrastructure Council, are progressed through the South Australian Parliament and apply automatically in the ACT. Amendments to the Rail Safety National Law Regulations are also automatically adopted in the ACT. However, the national regulations are required to be presented to the Legislative Assembly within six sitting days of being notified on the NSW Legislation website to have effect in the ACT (Section 7 of the *Rail Safety National Law (ACT) Act 2014*).

This part provides that the following three national regulations made under the Rail Safety National Law are taken to have been presented to the Legislative Assembly in the required timeframe and had not been disapplied by the *Legislation Act 2001*. National regulations under the Rail Safety National Law apply automatically in the ACT through the ACT’s application law (the *Rail Safety National Law (ACT) Act 2014*).

The *Rail Safety National Law National Regulations (Fees and Returns) Variation Regulations 2017* amends schedule 3 of the Rail Safety National Law regulations to increase the annual fees payable by a rail transport operator, in accordance with the agreed cost recovery model, to address the capacity of the Office of the National Rail Safety Regulator to undertake regulatory oversight. It also amended section 56, which prescribes the periodic information to be provided by accredited rail transport operators, each month and annually. The annual return is a forecast of operations and this information is used to determine the annual fee each year.

In November 2016 the Transport and Infrastructure Council approved a revised cost recovery model for the national rail safety regulator. As a result, the requirement to report information in an annual return is not required from 1 July 2017 and all information required under section 56 will need to be reported monthly.

The *Rail Safety National Law National Regulations (Miscellaneous) Variation Regulations 2017* amended schedule 3 of the Rail Safety National Law regulations to increase the application fee for applications for accreditation where the operation is a complex operation and introduced a major project fee designed to ensure regulatory oversight of operations can be properly maintained as the number of major rail projects in Australia increases.

The *Rail Safety National Law National Regulations (Queensland Fatigue Provisions) Variation Regulations 2017* facilitated Queensland's adoption of the Rail Safety National Law from 1 July 2017 by including specific fatigue provisions for Queensland. These amendments maintained the provisions in place in Queensland before it adopted the Rail Safety National Law. This approach was taken with NSW when it adopted the Rail Safety National Law. Inclusion of these provisions in the Rail Safety National Law national regulations allows all provisions relating to fatigue nationally to be in one piece of legislation.

These regulations were made by the South Australian Governor on 7 June 2017 and published on the NSW legislation website on 9 June 2017. The changes automatically commenced on 30 June 2017 and 1 July 2017 in all jurisdictions with application law, including the ACT.

The amendments in these regulations are minor and technical in nature and give effect to annual fee increases and changes to reporting obligations on rail operators to the national rail safety regulator. The national rail safety regulator routinely consults with all operators when developing proposed fee variations and changes in reporting obligations.

This part expires on the day it commences.