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

ELEVENTH ASSEMBLY

**ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) AMENDMENT BILL
2025**

EXPLANATORY STATEMENT

**Presented by
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Road Transport (Public Passenger Services) Amendment Bill 2025

INTRODUCTION

The Bill is a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

OVERVIEW OF THE BILL

The Bill amends the *Road Transport (Public Passenger Services) Act 2001* (the Act), the *Road Transport (Public Passenger Services) Regulation 2002* (the Regulation), and the *Road Transport (Offences) Regulation 2005* (the Offences Regulation) to strengthen the legal framework for managing violent behaviour on the public bus network.

Reports of occupational violence against public bus drivers have increased in the ACT and other Australian jurisdictions. The incidents can involve harassment and physical assault, leading to work absences, psychosocial and physical injury, serious work health and safety ramifications, and flow on effects for community safety.

On 15 November 2024, unprotected industrial action was taken in the form of a bus driver strike in response to occupational violence faced across the workforce.

On 19 November 2024, the ACT Government announced details of actions being explored to improve driver safety. These actions included:

- additional cabin protection safety screens across the bus fleet;
- de-escalation training for bus drivers;
- increased presence of field officers across the network, including a trial of new officer positions to support fare compliance and respond to occupational violence incidents; and
- legislative reform.

The Bill addresses the legislative reform component. These amendments form part of a broader suite of measures. In summary, the Bill:

- a. establishes a regulation-making power in the Act (new section 27AA) to allow for regulations to be made regarding the safe conduct of people at bus stops and the authority of authorised people and police officers to direct individuals to leave a bus stop if they are contravening a regulation and for police to take further action if an individual fails to comply with such a direction;
- b. establishes a move on power in the Regulation (new section 67AA), which allows authorised people and police to direct a person to leave a bus stop;
- c. enables police to remove the person if they fail to comply with a direction (new section 67AB);
- d. creates two new offences for bus stops in the Regulation (new sections 52(3A) and 52(3B)), which set the behavioural threshold to trigger a move on

direction (aggressive or menacing behaviour, or behaviour that unreasonably interferes with the safety of someone else) in addition to an existing equivalent offence at section 52(2)(b)(iii) for within a bus, and a new offence for failure to comply with a direction; and

- e. makes consequential amendments to Schedule 1 of the Offences Regulation.

The Bill provides a clear and enforceable framework for managing aggressive or menacing behaviour or behaviour that unreasonably interferes with other people's safety at bus stops.

It is intended to improve safety for passengers and staff, particularly in situations involving abuse, harassment or other behaviour that interferes with other people's safety.

CONSULTATION ON THE PROPOSED APPROACH

The City and Environment Directorate (CED), formerly Transport Canberra and City Services, consulted with the Chief Minister, Treasury and Economic Development Directorate (CMTEDD), the Office for Disability, ACT Policing, the Justice and Community Safety Directorate (JACS), specifically the Criminal Law and Human Rights Scrutiny areas, and the ACT Human Rights Commission in the development of the Bill.

Consultation also included engagement with other jurisdictions that have similar public transport enforcement frameworks in place.

The Transport Workers' Union (TWU) and workplace health and safety representatives were consulted in the drafting of the Bill.

The Bill provides a clear legal framework for enforcing existing expectations around safe conduct at bus stops. Stakeholders raised important considerations during consultation, including:

- The potential impact on vulnerable individuals, such as people experiencing homelessness, mental health issues, and/or disability, requiring a higher threshold for issuing a move on direction.
- The need for field officers and police to enforce the powers, not bus drivers. This ensures trained field officers can apply the powers appropriately and allows bus drivers to focus on their work by redirecting violent behaviour away from the bus.
- The need to distinguish between disruptive/nuisance behaviour and aggressive/menacing behaviour/behaviour that unreasonably interferes with other peoples' safety.

- Concerns regarding situations where a person who is moved on may be prevented from accessing alternative bus routes due to the location or time where the move on direction is enforced.
- Clarification that a move on direction should not extend beyond what is immediately required to address violence, including psychosocial violence such as verbal abuse.
- The need for the move on powers at bus stops to effectively distance a person who may cause harm to prevent violence before it happens or to prevent further escalation.

These views have informed the drafting of the Bill to ensure that enforcement powers are exercised proportionately and with appropriate discretion. Authorised people will assess the context of behaviour before issuing directions, and safeguards have been incorporated to minimise the risk of unreasonable or discriminatory use of the powers.

Education and awareness at implementation will ensure the community understands the scope and intent of the new provisions.

CLIMATE IMPACT

The Bill does not have a climate impact.

CONSISTENCY WITH HUMAN RIGHTS

An assessment of the Bill under section 28 of the *Human Rights Act 2004* (HRA) is provided below. Section 28 provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

Rights engaged

Rights Promoted

- Right to freedom of movement (section 13)
- Right to security of person (section 18)
- Right to work and other work-related rights (section 27B)

Rights Limited:

- Right to recognition and equality before the law (section 8)
- Right to freedom of movement (section 13)
- Right to freedom of expression (section 16)
- Rights in criminal proceedings (section 22)

Rights Promoted

The Bill promotes the right to freedom of movement under section 13 of the HRA by improving the safety and accessibility of bus stops, allowing passengers and drivers to move freely without fear of harassment or dangerous behaviour.

The Bill promotes the right to security of person under section 18 due to its primary goal of protecting public safety. Bus drivers, Transport Canberra staff, commuters and members of the public have the right to travel on the bus network, or to move through bus stop areas, without harm. The powers in the Bill will contribute to an overall sense of safety and security for people using the network, and in turn, may encourage more people to use buses if they see it as a safe mode of transport.

The Bill promotes the right to work under section 27B by improving working conditions. The amendments seek to ensure that bus drivers and authorised people can perform their duties without fear of harassment or aggression by providing mechanisms for authorised people and police to address aggressive or menacing behaviour, and behaviour that unreasonably interferes with other peoples' safety, at bus stops. These areas constitute a workplace for many workers and they have the right to participate in the workforce and to experience a safe and respectful work environment.

Rights Limited

Right to equality and non-discrimination

1. Nature of the right and the limitation (ss 28(2)(a) and (c))

Everyone is equal before the law and is entitled to equal protection of the law without discrimination under section 8 of the HRA.

The Bill introduces new offences applicable to bus stop areas relating to aggressive or menacing behaviour or unreasonably interfering with someone else's safety and powers to direct individuals to leave a bus stop area if they are committing or have just committed one of these offences or an existing offence for aggressive or menacing behaviour within a bus (new section 67AA). Police then have the power to remove a person from the bus stop area if they do not comply with the direction (new section 67AB).

There is potential for disproportionate impact on vulnerable groups, including people experiencing homelessness or disadvantage, individuals experiencing socioeconomic challenges or mental health issues or people living with disability (Mental Health Foundation, 2023). Aboriginal and Torres Strait Islander people may also be disproportionately affected. People within these groups may be more likely to rely on the public transport system and thereby spend a higher amount of time at bus stops and bus stop areas than the general community. The consequence of this is

that people from vulnerable groups may be more targeted by these reforms and therefore treated differently to other passengers.

2. Legitimate purpose (s 28(2)(b))

The legitimate purpose of powers to direct a person to leave a bus stop area is to promote public safety for bus drivers, passengers, and the community by reducing violence. The powers to direct individuals to leave a bus stop area are intended to prevent aggressive or menacing behaviour that threatens the safety of others. These amendments will bring the bus network into alignment with the current move on powers at light rail stops, thereby ensuring greater consistency across the transport framework.

There have been significant implications associated with occupational violence, particularly in public transport settings in the ACT and across Australia. These reforms are being introduced in direct response to reports of occupational violence in the ACT. Incidents of aggressive and menacing behaviour not only threaten worker and public safety but also contribute to psychosocial distress. Variations of move on powers on public transport networks exist in other jurisdictions to promote public safety. Some jurisdictions have adopted forms of move on powers as a means of addressing aggressive and menacing behaviour on buses, trains, at train stations, bus stops, and other public transport infrastructure.

People who rely on using public transport and people who work on the bus network are at risk of psychological and physical harm due to violence committed by a small proportion of the community. This can also lead to service disruptions. The new offences and move on powers applying at bus stops are intended to reduce these risks and promote public safety and safer working conditions.

3. Rational connection between the limitation and the purpose (s 28(2)(d))

There is a clear connection between the offences and move on powers and the objective of improving safety on public transport. While violent behaviour on the bus network is already against the law, the mechanisms to address it in real time are lacking. There are currently legal protections, such as workplace protection orders (WPOs) under the *Personal Violence Act 2016* and various offences under the *Crimes Act 1900*; however, these often fail to provide timely intervention when needed. For example, WPOs take considerable time and resources to be enforced, and police triaging and limited resources can delay or prevent police attendance to enforce the Crimes Act, preventing immediate action on incidents that may have been prevented. This shines light on a gap in the system where a more immediate response is needed. The move on powers act as a control measure to respond to aggressive or menacing behaviour or behaviour interfering with peoples' safety at bus stops and, indirectly, on buses. By having early intervention, the powers reduce

the risk of occupational violence and minimise service disruptions caused by aggressive or menacing behaviour.

The new offences applying at bus stops are essential to support the enforcement of move on powers. Not only do the offences serve as a clear, objective threshold for authorised people and police to use in activating the powers, but the offences strengthen the use of the move on powers to demonstrate violence is not tolerated.

The move on powers are designed to de-escalate potentially dangerous behaviour. Such behaviour may include:

- Acts of physical violence or harm
Aggressive behaviour that results in injury or endangers the physical safety of someone else. This includes pushing, striking, or otherwise assaulting individuals at bus stops.
- Threats or intimidation
Verbal or non-verbal conduct intended to instil fear, coerce compliance, or provoke confrontation. This may include threatening gestures or statements implying imminent harm.
- Verbal abuse
The targeted use of language that is discriminatory or otherwise abusive, particularly where it targets individuals based on race, gender, disability, or other protected attributes.
- Dangerous object throwing
Projecting or launching items including from vehicles, platforms, or stops that may cause injury, disrupt services, or create safety hazards.
- Obstruction or interference with transport operations
Behaviours that impede the safe functioning of services, such as blocking doors, creating safety hazards by damaging equipment, or interfering with emergency equipment.

The powers are aimed at preventing aggressive or menacing behaviour which helps protect bus drivers, passengers and people waiting at or passing through bus stops. These powers are an essential component of a broader suite of non-legislative measures to address occupational violence faced by bus drivers, such as training, resourcing, and protective equipment.

The intention behind the Bill is that authorised people will act as a “stop gap” measure between bus drivers and police officers to de-escalate situations before they become serious. It is also envisaged that the presence of these authorised people on the bus network will act as a deterrent for those who may be considering engaging in dangerous behaviour.

Creating safe and healthy working conditions is fundamental to the primary duty of care under section 19 of the *Work Health and Safety Act 2011* (WHS Act). Under this duty of care, persons conducting a business or undertaking (PCBUs) must ensure so far as is *reasonably practicable* workers and other persons are not exposed to risks to their psychological or physical health and safety. This includes managing risks relating to psychosocial hazards such as bullying and harassment.

For the purposes of the Bill, the relevant PCBU is the Territory, as the ACT Government is responsible for the operation of the transport network and is the employer of the public servants who work within it.

To manage such risks, it is necessary to have control measures in place so that PCBUs can eliminate or minimise psychosocial risks that happen at a workplace (Lincoln et.al., 2015). This Bill assists in creating safe and healthy working conditions, and in fulfilling the primary duty of care by functioning as a *control measure*.

The Bill identifies and assesses the risks associated with occupational violence incidents perpetrated towards bus drivers, passengers, and members of the public. As such, this Bill is a key government measure within the suite of measures such as training and additional field staff that aims to reduce workplace violence and trauma and upholds the right to just and favourable working conditions.

By allowing authorised people to step in early, the move on powers help in reducing the risk of physical and psychological harm and support a safe public transport system. Over time this also promotes the message that aggressive or menacing behaviour is not acceptable and encourages positive behavioural change in the community (Teague et.al., 2015).

4. Proportionality (s 28(2)(e))

Legislative safeguards are available under the Bill, particularly through the high behaviour threshold required for the move on directions to be activated. For example, the move on powers may only be used in response to aggressive or menacing behaviour, or behaviour which unreasonably interferes with someone's safety, and are not for minor conduct like nuisance behaviour. As previously highlighted, WPOs present an alternative legislative option; however, these have proven to be resource heavy and do not deliver a time critical response.

The Bill and operational planning for implementation have been designed in tandem to ensure the impacts on rights arising from the Bill are proportionate to the legitimate purpose of reducing occupational violence, protecting public safety, and ensuring respectful use of public transport services. The Bill limits the right to equality and non-discrimination in the least restrictive way possible to achieve the objective of reducing violence on the bus network.

The inclusion of a robust behavioural threshold – being that a person must be acting in an aggressive or menacing way or unreasonably interfering with someone else’s safety – may protect people with disability or mental illness from inadvertently being given a move on direction due to bias or misunderstanding. This threshold is higher than the existing threshold for moving a person on from within a bus, light rail vehicle, or light rail stop. The rationale for this is that, in the ACT, the bus is the primary means of public transport, and if a person is excluded from one bus or bus stop, it is necessary that they can still access other buses and stops to commute. Buses access a greater range of areas than light rail in the ACT. Light rail will not always be a viable alternative option for people who have been excluded from using buses. There is only one light rail line, so if a person is excluded from using light rail, they are still able to use the bus as transport.

While it might appear that the powers used by light rail officers at light rail stops are sufficient, bus services face different challenges (TWU, 2024). Bus drivers are not physically separated from passengers in the same way light rail drivers are. The number of bus drivers in the ACT is significantly higher than light rail drivers, and buses operate across wider and less predictable areas of the ACT.

Another legislative safeguard is the limited scope of land on which the move on directions and offences may apply. A bus stop area is defined as the area within a 20-metre radius of a bus stop sign that is public unleased land. This enables authorised people to move an offender a safe distance away from the bus stop to diffuse a dangerous situation. Due to the restriction to public unleased land, a move on direction will still allow that person to access facilities nearby on private land.

The move on direction is not time limited (i.e. it expires after the person complies, so does not continue to apply for a set time or indefinitely). This allows a person to calm down, assess their previous behaviour and re-enter the bus stop area after complying with the move on direction. This is particularly important when considering remote bus stops or late-night incidents where there may be no more buses running.

Only dedicated field officers for the bus network and police will be authorised to issue move on directions. The move on powers will be used by authorised people trained to use the powers appropriately to allow bus drivers to focus on their work and to divert a dangerous situation away from them. Only the police have the power to remove someone who refuses to comply. This ensures that minor incidents can be managed by dedicated authorised people, while police retain further enforcement powers for non-compliance.

Operationally, the powers will be exercised reasonably and with reference to the individual circumstances in any given situation. The inclusion of safeguards, such as requiring authorised people under section 67AA to form a reasonable belief that a person is committing, or has just committed, an applicable offence, helps ensure that

enforcement is proportionate and sensitive to individual circumstances, particularly for vulnerable people (Department of Transport, Victoria, 2019)

Authorised people will be trained in disability awareness and to understand sensitivities in mental health to prevent the move on powers and offences from being enforced arbitrarily or without care and respect. Authorised people will also be equipped to refer people onto support services if enforcement is not considered to be appropriate.

De-escalation methods, relevant training, educational materials, standard operating procedures, and ongoing evaluation and supervision will be provided to authorised people to assist them in using move on powers without bias or discrimination. Implementation is planned as follows:

- Authorised people will be equipped to exercise move on powers responsibly through a structured and practical approach that ensures they are provided targeted training and clear procedural guidance, with a strong focus on respectful engagement with the public, particularly individuals with disability or mental illness.
- All authorised people will undertake mandatory training that addresses the legislative basis, scope, and limitations of move on powers. This training will incorporate practical case studies and scenario-based learning to support sound judgment and consistent application. A central component of the training will be the application of de-escalation techniques. Authorised people will be equipped with strategies to manage potentially volatile or sensitive situations in a calm and constructive manner. This will include the use of active listening, non-threatening body language, respectful verbal engagement, and the provision of clear choices to reduce perceived coercion. Officers will also be trained to recognise signs of distress or escalation and to apply trauma-informed approaches that prioritise safety, dignity, and voluntary compliance wherever possible.
- To support operational consistency, dedicated standard operating procedures will be reviewed to provide clear and practical guidance on the use of move on powers. These resources will be subject to regular review to ensure alignment with legislative developments and operational feedback.
- In addition, authorised people will receive training on identifying and appropriately responding to individuals with disability and/or mental illness. Relevant standard operating procedures and training materials will be reviewed and, where necessary, enhanced to ensure alignment with the responsible use of move on powers. Authorised people will be encouraged to consider alternative responses, including referral to support services, where enforcement may not be appropriate.
- Ongoing supervision and oversight will be provided by team leaders and Executives who will offer regular feedback and guidance to ensure that powers are exercised appropriately and consistently. All incidents involving

occupational violence are captured in reporting mechanisms and reviewed with insights used to inform continuous improvement.

Access to transport services is a key focus area within the ACT Disability Strategy 2024-2033 – a related action is that all Transport Canberra employees should complete Disability Awareness Training. In addition to further training provided as outlined above, this training ensures that authorised people are mindful of the vulnerabilities of people travelling within the bus network.

Right to Freedom of Movement

1. Nature of the right and the limitation (ss 28(2)(a) and (c))

The right to freedom of movement enables everyone to move freely within the ACT, including to/from and within public spaces under section 13 of the HRA.

The Bill will introduce move on powers that temporarily direct individuals to move on from bus stops, which are defined in the Bill as bus stop areas; meaning the area of public land encompassing a radius of 20 metres from a bus stop sign. Bus stop signs are defined at existing section 70 of the Regulation as including bus stand and bus zone signs. This limits the right to freedom of movement for people who are the subject of a move on direction as it may result in them being denied access to transport, albeit temporarily.

The act of moving someone on from a bus stop area involves preventing their freedom to move within that 20-metre radius of the relevant bus stop sign, excepting private land. If the person fails to comply, police may remove them from the bus stop area. When directed to leave a bus stop area, the person may still access nearby facilities not on public unleased land.

2. Legitimate purpose (s 28(2)(b))

The legitimate purpose of powers to direct a person to leave a bus stop area is to promote public safety for bus drivers, passengers, and the community by reducing violence. The powers to direct individuals to leave a bus stop area are intended to prevent aggressive or menacing behaviour that threatens the safety of others.

The Bill aims for bus drivers, passengers, and people passing through bus stop areas to move freely to their chosen destinations within the ACT without violence. Moving freely in this context means being able to access the bus network without encountering aggressive or menacing behaviour, or behaviour that unreasonably interferes with safety. Without move on powers, individuals may feel less inclined to use public transport, resulting in an adverse impact on their social and professional lives (Useche et al., 2024).

As noted above under the right to equality and non-discrimination, the impacts of occupational violence in transport settings are significant and some other jurisdictions have adopted similar powers to promote public safety.

3. Rational connection between the limitation and the purpose (s 28(2)(d))

There is a clear connection between the limitation and legitimate purpose as the new move on powers allow for authorised people and police to direct a person behaving dangerously to leave the immediate area immediately, and police may remove them if they fail to comply.

These move on powers complement existing powers in the Regulation to direct a person to leave or not get on a bus (section 66C) and for police to remove a person from a bus if they fail to comply (section 67). In addition to workplace duty of care considerations outlined above, these powers address dangerous behaviour to prevent physical and psychological harm before any serious incidents occur and prevents further escalation.

The move on powers, in tandem with various non-legislative measures, may contribute to long term behavioural change and demonstrate that occupational violence in public transport environments is not tolerated (Transit Advisory Committee for Safety, 2015). Over time, this reinforces the expectations of respectful conduct among all individuals and ensures that public transport remains a safe space for bus drivers and persons engaging in the services.

4. Proportionality (s 28(2)(e))

The limitation on freedom of movement is proportionate to the legitimate purpose of reducing occupational violence, protecting public safety, and ensuring respectful use of public transport services.

The Bill was drafted to ensure the right to freedom of movement was limited only as much as necessary to allow for move on directions at bus stops to be effective. For example, the definition of bus stop area is limited to the area of public unleased land within a radius of 20 metres from a bus stop sign. A standard bus is 12-18 metres in length and generally will stop with the front of the bus at a bus stop sign. Where there is an individual behaving aggressively, menacingly, or otherwise interfering with someone else's safety, such as abusing the bus driver, attempting to damage the bus, or abusing other people, the move on direction would reach beyond the length of the bus in most cases. If the behaviour continues in another bus stop area (e.g., within 20 metres of another bus stop sign after complying with a direction to leave the first bus stop area), another move on direction can be issued from that area. The threshold relies on a particular offence to either be being committed or having just been committed, meaning the person must stop behaving dangerously in breach of those offences if they need to immediately re-enter the area to access services.

While bus stops differ in size and type across the ACT, from busy inner-city interchanges to signs on the side of the road in remote areas, the consistent definition of bus stop area improves enforceability by keeping a simple 20-metre rule for authorised people and police to apply. The Bill requires the person giving a direction to state the area the person must leave, which ensures anyone being given a move on direction will understand how to comply wherever they are.

The Bill was also drafted to set a high threshold for use of move on directions at bus stops to ensure the right to freedom of movement is not arbitrarily limited. The move on powers at bus stops may only apply to specific behaviours that interfere with safety, as opposed to a lower threshold for similar move on powers at light rail stops under section 70AAN of the Regulation or powers to direct a person to leave or not get on a bus or light rail vehicle, which include ticketing offences and actions such as offensive language. The higher threshold in the Bill for bus stops reflects the lack of clear physical boundary at bus stops and the extensive number of bus stops covering public unleased land around the ACT. The higher threshold also links directly to the purpose of public safety.

Individuals issued with a move on direction at a bus stop are given the opportunity to comply before enforcement action may be taken. These measures make it clear that move on powers must satisfy a high threshold and a clear distinction will need to apply between offensive language and aggressive or menacing behaviour or behaviour that interferes with safety. The safeguards lie in the fact that the move on powers are only enforceable based on an objective assessment of behaviour (in the case of the existing strict liability offence at section 52(2)(b)(iii) and new strict liability offence at section 52(3A)); and the use of the concept “unreasonably interferes” with safety (section 52(3B)), which emphasises that the interference must actively and negatively impact a person’s safety before the threshold is met.

The new power for police to remove a person from the relevant bus stop area for failing to comply (new section 67AB) is reasonable and proportionate as it only applies in instances of extreme violence where police must attend. The power to remove a person is only available to police, as is the case for the equivalent powers at light rail stops and on buses and light rail vehicles. Resourcing and operational process does not require police to attend all instances of violence on the public transport network.

The fact that move on directions do not apply to people for a set time or indefinitely provides a further safeguard, as this allows a person to calm down, assess their previous behaviour and re-enter the bus stop area soon after complying with the move on direction. This is particularly important when considering remote bus stops or late-night incidents where there may be no more buses running.

As outlined above, authorised people will be required to have a degree of mental health and disability awareness to ensure a person is not deprived of their freedom

of movement inadvertently as a result of officer bias or misunderstanding, as well as to ensure the person can be referred onto any relevant health services if they need assistance.

Current operational process for bus drivers experiencing occupational violence or witnessing violence against others is to request a field officer (Transit Officer) attend. A duress button is available for bus drivers to contact the police in cases of extreme violence; however, resourcing and triaging of emergency situations means there may not always be police attendance immediately. New section 67AB allows police to remove a person from a bus stop area who fails to comply. Police have existing powers to intervene in general; however, it is essential that the move on directions at bus stops are upheld in these cases to maintain effectiveness and lead to behavioural change in the long term. This also ensures consistency with similar frameworks applying to light rail stops and on buses and light rail vehicles.

Right to Freedom of Expression

1. Nature of the right and the limitation (ss 28(2)(a) and (c))

The Bill has potential to limit the right to freedom of expression. Everyone has the right to express themselves freely, including the right to seek, receive, and impart information and ideas of all kinds under section 16 of the HRA.

The new move on powers under the Bill may limit the right of people to express themselves freely by prohibiting certain forms of behaviour in bus stop areas. For example, if a person at a bus stop chose to express a view verbally or through art in a way which is aggressive, menacing or unreasonably interferes with the safety of others (such as creating a direct safety hazard), an authorised person or police could consider this to be committing an offence under new sections 52(3A) or (3B) and direct the person to move out of the bus stop area.

2. Legitimate purpose (s 28(2)(b))

The purpose of the move on powers and accompanying offences at bus stops is to uphold the safety and wellbeing of Transport Canberra staff, bus passengers and members of the public on the bus network. To achieve this, aggressive or menacing behaviour or behaviour that unreasonably interferes with safety cannot be tolerated.

People who rely on using public transport and people who work on the bus network are at risk of psychological and physical harm due to violence committed by a small proportion of the community. This can also lead to service disruptions. The new offences and move on powers applying at bus stops are intended to reduce these risks and promote public safety and safer working conditions.

3. Rational connection between the limitation and the purpose (s 28(2)(d))

The Bill is constructed in such a way that move on powers are only applied in specific situations where there is a direct risk of harm.

There is a clear connection between the limitation on freedom of expression and the objective of improving safety on public transport. While violent behaviour on the bus network is already against the law, the mechanisms to address it in real time are lacking and there are no strong commensurate protections for behaviour which may be verbally abusive or expressed in an abusive way. In addition to workplace duty of care considerations outlined above, the move on powers act as a control measure to respond to aggressive or menacing behaviour or behaviour interfering with peoples' safety at bus stops and, indirectly, on buses. By having early intervention, the powers reduce the risk of occupational violence and minimise service disruptions caused by aggressive or menacing behaviour.

The new offences applying at bus stops are essential to support the enforcement of move on powers. Not only do the offences serve as a clear and objective threshold for authorised people and police to use in activating the powers, but the offences strengthen the use of the move on powers to demonstrate violence is not tolerated.

4. Proportionality (s 28(2)(e))

The move on powers, offences and operational implementation involve safeguards that make them a proportionate response to achieve public and occupational safety.

The higher behavioural threshold for move on powers at bus stops reduces the likelihood of the right to freedom of expression being limited, as a person would need to be engaging in aggressive or menacing behaviour or unreasonably interfering with someone else's safety to trigger a move on direction. The 20-metre limit to the definition of bus stop area also serves as a legislative safeguard.

As outlined above, the inclusion of safeguards, such as requiring authorised people to be properly trained to assess the context of behaviour and the impact on others, helps ensure that enforcement is proportionate and reflective of protecting safety rather than general nuisance.

Rights in Criminal Proceedings

1. Nature of the right and the limitation (ss 28(2)(a) and (c))

Everyone charged with a criminal offence has the right to be presumed innocent until proven guilty under section 22(1) of the HRA. Under section 22(3) a child charged with a criminal offence has the right to a procedure that takes the child's age into account and the desirability of promoting rehabilitation.

The Bill has the potential to limit rights in criminal proceedings through the use of strict liability offences under new sections 52(3A) and 67AA. Strict liability offences do not require proof of mens rea (a guilty mind), focusing solely on the actus reus (a guilty act), but the defence of mistake of fact is available. Strict liability offences limit the right to presumption of innocence under section 22(1) of the HRA because they allow for the imposition of criminal liability without the need to prove fault.

These strict liability offences and the move on directions may also be applied to children at bus stops, which engages the right for a child charged with an offence to have their age taken into account under section 22(3) of the HRA.

The strict liability offence at new section 52(3A) addresses aggressive or menacing behaviour in a bus stop area, which replicates the existing strict liability offence at section 52(2)(b)(iii) for aggressive or menacing behaviour within a bus. New section 52(3A), existing section 52(2)(b)(iii), and new section 52(3B) (unreasonably interfering with the safety of someone else in a bus stop area, which is not strict liability) serve as the threshold for activating move on powers at bus stops.

The strict liability offence at new section 67AA relates to failure to comply with a direction to leave a bus stop area. Such a direction may only be given if an authorised person or police officer believes on reasonable grounds that a person is committing or has just committed one of the three offences listed above; sections 52(2)(b)(iii), 52(3A), or 52(3B).

2. Legitimate purpose (s 28(b))

The purpose of including strict liability offences, which apply to children and adults, is to address violence on the bus network, as outlined above. This behaviour includes conduct that is intimidating, threatening, harassing, or otherwise disruptive to the safe use of public transport services, such as physical or verbal abuse and other behaviours listed earlier in this analysis.

3. Rational connection between the limitation and the purpose (s 28(d))

The strict liability offences and move on powers are designed to improve safety for bus drivers, passengers, and the community by reducing violence at bus stops, particularly occupational violence, which also prevents passengers boarding a bus who are behaving dangerously. The strict liability offences ensure enforceability to support these measures and potentially lead to behavioural change on the bus network over time.

Both adults and children are subject to the new offences and move on powers. ACT data and internal reporting show there have been instances of occupational violence involving children and young people on the bus network. Reducing violence on the ACT's public transport system requires the enforcement framework to apply to all members of the community.

Authorised people and police may exercise move on powers when a person displays aggressive or menacing behaviour, or behaviour that unreasonably interferes with safety at a bus stop or bus stop area. If the authorised person or police officer believes the behaviour constitutes an offence against sections 52(2)(b)(iii) (aggressive or menacing in a bus), 52(3A) (aggressive or menacing at a bus stop), or 52(3B) (unreasonably interferes with someone's safety at a bus stop), the move

on power is activated. This authority is to de-escalate situations and maintain the safety of the transport environment.

When such behaviour is observed, an authorised person may direct the person to relocate 20 metres away from the bus stop on public unleased land. This will create a physical buffer that reduces the risk of further conflict and gives the person the opportunity to change their behaviour. The person remains entitled to access public transport services even after the move on power is activated, including boarding a subsequent bus, if their behaviour is no longer dangerous.

If it is deemed that the person continues to act dangerously, meaning they are committing one of the relevant offences, or if the person fails to comply with the direction, the strict liability offence under new section 67AA may apply. In extreme cases, the matter may be escalated to police to ensure the safety of the bus drivers, passengers, and community.

The introduction of move on powers and accompanying strict liability offences helps protect the rights and safety of bus drivers, passengers, and others using the bus network. It also respects the rights of the person being asked to move on. These powers do not prevent someone from using public transport altogether. Instead, they are reserved only when someone is behaving in a way that puts others' safety at risk.

By enabling authorised people to respond to conduct that interferes with safety, the Bill supports the broader goal of ensuring public transport services are safe and inclusive for all users.

4. Proportionality (s 28(2)(e))

The strict liability offences introduced by the Bill are an essential component of the new move on powers at bus stops. Only the minimum scope of the offences needed to ensure the move on powers can be effective has been set to ensure the Bill is reasonable and justifiable under section 28 of the HRA.

The policy intent is not for new offences to be established; rather, an expansion in scope for some existing offences to also apply at bus stops instead of only within buses. These offences are:

- a. the existing strict liability offence at section 52(2)(b)(iii) for aggressive or menacing behaviour within a bus; and
- b. part of the existing offence at section 52(3)(b) for unreasonably interfering with the safety of someone else. The 'interfering with comfort' component, which is part of the existing offence within a bus, has not been carried over to the bus stop equivalent as the focus of the Bill is safety.

The new offences at sections 52(3A) and (3B) are the result of this expansion of the existing offences to apply at bus stops. Only the new offence at section 52(3A) is

strict liability due to the ‘unreasonable’ component of new section 52(3B) making it unsuitable for strict liability.

The strict liability offence at new section 52(3A) for behaving in an aggressive or menacing way in a bus stop area is a clear and objective threshold for authorised people and police to apply. Existing move on powers at light rail stops, within light rail vehicles, and within buses have lower thresholds of behaviour. This lower threshold includes offences relating to behaviours such as offensive language or causing a nuisance. The Bill elevates the new offences at bus stop areas to a higher threshold that links directly to safety.

The new strict liability offence for failing to comply with a move on direction at a bus stop is also clear and objective for authorised people and police to apply, as the Bill requires the authorised person or police officer to state the area which constitutes a bus stop area when giving a direction. This means the person receiving the direction understands how to comply. If they choose not to comply, the new strict liability offence at section 67AA may apply.

The move on direction is not time limited (i.e. it does not apply for a set time or indefinitely), meaning the person may re-enter a bus stop area after complying. This allows a person to calm down, assess their previous behaviour and re-enter the bus stop area after complying with the move on direction. This means a strict liability offence at section 67AA will not apply if they re-enter soon after complying with a direction.

Another safeguard is that the new strict liability offences under sections 52(3A) and 67AA(3) will be subject to the infringement notice scheme under the *Road Transport (Offences) Regulation 2005*. This means that a person can accept a lesser penalty without any admission of guilt, avoiding court proceedings and a potential conviction.

Consistent with other strict liability offences in the road transport legislation, a lower infringement notice amount is set for children receiving an infringement notice compared to adults. This reflects the right for children being charged with criminal offences to have their age taken into consideration. In addition, infringement notices allow children to be charged without having to be prosecuted through Court, which may improve the likelihood for rehabilitation under section 22(3) of the HRA.

References

1. Useche, S. A., Colomer, N., Alonso, F., & Faus, M. (2024). Invasion of privacy or structural violence? Harassment against women in public transport environments: A systematic review. *PLOS ONE*, 19(2), e0296830.

2. Mental Health Foundation. (2023). *Public mental health and transport: Understanding the links to improve policy and practice*. Mental Health Foundation.
3. Department of Transport, Victoria (2019). Code of Conduct for Public Transport Authorised Officers. Victorian Government.
4. Transport Workers' Union. (2024, November 15). *Canberra bus drivers stop work over escalating assaults, safety failures by ACT Government*.
5. Lincoln, R., & Gregory, A. (2015). Moving Violations: A Study of Incivility and Violence Against Urban Bus Drivers in Australia. *International Journal of Education and Social Science*, 2(1).
6. Teague, C., Green, L., Leith, D. An Ambience of Power? (2010). Challenges Inherent in the Role of the Public Transport Transit Officer. *Media/Culture Journal*, 13(2).
7. Transit Advisory Committee for Safety (TRACS) (2015). Preventing and Mitigating Transit Worker Assaults in the Bus and Rail Transit Industry (Report No. 14-01). Federal Transit Administration.

Road Transport (Public Passenger Services) Amendment Bill 2025

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Road Transport (Public Passenger Services) Amendment Bill 2025**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is** consistent with the *Human Rights Act 2004*.

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Tara Cheyne MLA
Attorney-General

CLAUSE NOTES

PART 1 PRELIMINARY

Clause 1 Name of Act

This clause states that the name of the Act is the *Road Transport (Public Passenger Services) Amendment Act 2025*.

Clause 2 Commencement

This clause states that the Act commences on the day after its notification day.

Clause 3 Legislation amended

This clause states that the legislation amended by this Act is primarily the *Road Transport (Public Passenger Services) Act 2001* (the Act) and the *Road Transport (Public Passenger Services) Regulation 2002* (the Regulation).

Amendments to another piece of road transport legislation, the *Road Transport (Offences) Regulation 2005*, are contained in Schedule 1.

PART 2 ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) ACT 2001

Clause 4 New section 27AA

This clause inserts new section 27AA into Division 2.5 of the Act. The new section allows for regulations to be made regarding:

- a) the safe conduct of people at bus stops and the surrounding area;
- b) the authority of police officers and authorised people to direct individuals contravening a regulation to leave a bus stop or a stated surrounding area; and
- c) the authority of police officers to remove individuals from a bus stop or surrounding area if they fail to comply with a direction to leave.

This allows for the new offence provisions at sections 52(3A) and (3B) and move on directions at sections 67AA and 67AB to be inserted into the Regulation - see Clauses 9 and 12.

Clause 5 Dictionary, note 3

This clause inserts the term authorised person into note 3 of the Dictionary. This is a signpost definition to link this term to its legal meaning as defined in the *Road Transport (General) Act 1999*. The Dictionary in the *Road Transport (General) Act 1999* outlines several terms that are commonly used across the road transport legislation framework.

PART 3 ROAD TRANSPORT (PUBLIC PASSENGER SERVICES) REGULATION 2002

Clause 6 Offences against regulation – application of Criminal Code etc

Section 4A, note 1

This clause replaces the reference to “bus passengers” in section 4A, note 1 of the Regulation with the phrase “bus passengers and people in bus stop areas”.

This is to incorporate the new heading for Part 3.3, as inserted by Clause 7, which reflects the fact that Part 3.3 is being expanded to include behaviour that occurs in bus stop areas.

Clause 7 Part 3.3 heading

This clause replaces the current heading of Part 3.3 of the Regulation, “Bus passengers,” with a new heading “Bus passengers and people in bus stop areas.” Part 3.3 outlines provisions concerning the behaviour of bus passengers, and the powers given to bus drivers and police officers to move passengers on if their behaviour contravenes Part 3.3.

The current heading reads “Bus passengers,” so the insertion of the new heading reflects the expansion of the current move on powers to people in bus stop areas, as well as buses.

Clause 8 New section 51A

This clause inserts a new section 51A into the Regulation to incorporate the definition of the new term “bus stop area.” Bus stop area is defined as the area within a 20-metre radius of a bus stop sign that is public unleased land. This reflects the policy intent that once a person has been directed to move on, they will be required to leave the area surrounding a bus stop to ensure that their behaviour will no longer cause safety concerns for other people at a bus stop. Limiting the definition of “bus stop area” to public unleased land allows the person to still access facilities and private land nearby.

Section 51A also signposts the existing definitions of “bus stop sign” in section 70(2) of the Regulation, and “public unleased land” in section 8 of the *Public Unleased Land Act 2013*.

Clause 9 Behaviour that interferes with comfort or safety

New section 52 (3A) and (3B)

This clause inserts two new offences into section 52 of the Regulation, subsections (3A) and (3B), which outline the behaviour thresholds in a bus stop area that may activate a move on direction from a bus stop area. These new offences are an expansion of existing offences that apply within a bus, expanding the elements relevant to safety to also apply in bus stop areas.

Under new section 52(3A), which is strict liability, a person commits an offence in a bus stop area if they behave in “an aggressive or menacing way.” Under section 52(3B), a person commits an offence in a bus stop area if they “unreasonably interfere with the safety of someone else.”

The language used reflects the serious nature of the incidents that have occurred within the bus network, including at bus stops. It covers situations where someone behaves in such a way that they give another person the impression that they are likely to harm them or threaten their physical or psychological safety.

Clause 10 Section 52 (4)

This clause replaces the current reference to subsections (1) and (2) in section 52(4) of the Regulation with subsections (1), (2) and (3A).

Section 52(4) outlines the fact that offences under subsections (1), (2) and the new provision (3A) - as outlined in Clause 9 – are all strict liability offences.

Clause 11 Bus driver, authorised person or police officer – power to direct person to get off, or not get on, bus

Section 66C (1) (a) (ii)

This clause inserts “and people in bus stop areas” after “passengers” in section 66C(1)(a)(ii) to reflect the fact that move on powers in Part 3.3 of the Regulation now include the power to move people at bus stop areas on, as well as passengers.

Clause 12 New sections 67AA and 67AB

This clause inserts new sections 67AA and 67AB into the Regulation to establish move on powers at bus stops. If an authorised person or police officer reasonably believes a person is committing or has just committed an offence against existing section 52(2)(b)(iii), new section 52(3A) or new section 52(3B), they may direct the person to leave the bus stop area under new section 67AA. These offences relate to aggressive or menacing behaviour in a bus or bus stop area and behaviour which unreasonably interferes with the safety of another person in a bus stop area.

When issuing a direction under new section 67AA, the authorised person or police officer must tell the person the bus stop area from which they need to leave, which is defined at new section 51A as within a 20-metre radius from the relevant bus stop sign on public unleased land.

It is a strict liability offence to fail to comply with a direction under new section 67AA.

New section 67AB establishes the power for police to remove a person from the bus stop area if they fail to comply.

New sections 67AA and 67AB align with the similar move on direction framework for light rail stops under existing sections 70AAN and 70AAO, with the exception of defining a bus stop area as bus stops lack a visible boundary compared to light rail stops.

As outlined above, the offences that trigger section 67AA are outlined under sections 52(2)(b)(iii), (3A) or (3B), which relate directly to safety.

Clause 13 Dictionary, new definition of bus stop area

This clause inserts a reference to the new definition “bus stop area” in new section 51A, Part 3.3 into the Dictionary.

SCHEDULE 1 ROAD TRANSPORT (OFFENCES) REGULATION 2005 – CONSEQUENTIAL AMENDMENTS

Clause 1.1 Schedule 1, part 1.14, new items 72A and 72B

This clause inserts new items 72A and 72B to Schedule 1 of the *Road Transport (Offences) Regulation 2005*, which outline all of the offence short descriptions and penalties for the new offences at sections 52(3A) and 52(3B) - as inserted in Clause 9. The new offence items address aggressive or unsafe behaviour in bus stop areas and penalty amounts align with other similar offences in the road transport legislation.

Infringement notice amounts are only set for the new offence at section 52(3A), which is strict liability. The new offence at section 52(3) is not strict liability and so cannot result in infringement notices.

- Item 72A.1 inserts the offence linked to the new section 52(3A) for a child engaging in aggressive or menacing behaviour in a bus stop area, for which 10 penalty units and an infringement notice penalty of \$75 apply.
- Item 72A.2 inserts the offence linked to the new section 52(3A) for an adult engaging in aggressive or menacing behaviour in a bus stop area, for which 10 penalty units and an infringement notice penalty of \$380 apply.
- Item 72B inserts the offence linked to the new section 52(3B) for someone who unreasonably interferes with the safety of another person in a bus stop area, for which 10 penalty units applies.

Clause 1.2 Schedule 1, part 1.14, new item 101A

This clause inserts a new item 101A to Schedule 1 of the *Road Transport (Offences) Regulation 2005*, which outlines the offence penalties created by new section 67AA – as inserted in Clause 12. The new offence items address failing to comply with a move on direction.

- Item 101A.1 inserts the offence linked to the new section 67AA(3) for a child who does not comply with a direction to move on given by an authorised person or a police officer, for which 5 penalty units and an infringement notice penalty of \$75 apply.
- Item 101A.2 inserts the offence linked to the new section 67AA(3) for an adult who does not comply with a direction to move on given by an authorised person or a police officer, for which 5 penalty units and an infringement notice penalty of \$261 apply.