

Commercial Passenger Vehicle Industry Regulations 2018

S.R. No. /2018

Part 1—Preliminary

1 Objectives

The main objectives of these Regulations are to prescribe requirements for or in relation to—

- (a) the registration of booking service providers; and
- (b) the accreditation of drivers; and
- (c) consumer protections in relation to—
 - (i) fares and other charges for commercial passenger vehicle services; and
 - (ii) the accessibility of commercial passenger vehicle services; and
 - (iii) consumer complaints about service provision; and
- (d) vehicle safety standards and the safety duties of industry participants; and
- (e) record keeping and other operational requirements.

2 Authorising provision

These Regulations are made under section 289 of the **Commercial Passenger Vehicle Industry Act 2017**.

3 Commencement

These Regulations come into operation on 2 July 2018.

4 Definitions

In these Regulations—

applicable unbooked service has the same meaning as in section 110A of the Act;

AS/NZS 10002:2014 means the Standard AS/NZS 10002:2014—Guidelines for complaint management in organizations;

associated driver has the same meaning as in section 24(4) of the Act;

driver, in relation to a commercial passenger vehicle being used to provide a commercial passenger vehicle service, means an accredited driver;

fare calculation device means a mechanical, electrical or electronic device that calculates, records or displays information about commercial passenger vehicle fares and hiring charges for unbooked commercial passenger vehicle services;

Examples

A taximeter, a computer tablet or a smart phone.

health professional means—

- (a) a person registered under the Health Practitioner Regulation National Law—
 - (i) to practise in the medical profession (other than as a student); or
 - (ii) to practise in the nursing and midwifery profession as a nurse (other than as a midwife or as a student); or

- (b) an operational staff member within the meaning of the **Ambulance Services Act 1986**;

hirer, in relation to a commercial passenger vehicle, means a person being provided, or who wants to be provided, with a commercial passenger vehicle service;

Part 3 permission holder, in relation to a commercial passenger vehicle, means the person in whose name the vehicle is registered under Part 3 of the Act;

relevant complaint means a complaint relating to—

- (a) the provision of a booking service by the booking service provider; or
- (b) the provision of a commercial passenger vehicle service arranged or facilitated by the booking service provider; or
- (c) the provision of a commercial passenger vehicle service in a commercial passenger vehicle bearing the sign, symbol, notice or label of the booking service provider;

specifications determination means a determination under regulation 10(1);

termination, in relation to the hiring of a commercial passenger vehicle, means the time when the hiring ends for any reason, including because—

- (a) the agreed destination for the hiring has been reached; or
- (b) the hirer has requested the termination before the agreed destination for the hiring has been reached;

the Act means the **Commercial Passenger Vehicle Industry Act 2017**.

Part 2—Safety

Division 1—Discharge of safety duties

5 Requirement for registered booking service provider to establish and maintain a register of safety risks

- (1) A registered booking service provider must establish and maintain a register of safety risks associated with the provision of commercial passenger vehicle services by an associated driver that contains the matters specified under subregulation (2) in relation to each of those safety risks.

Penalty: 20 penalty units.

- (2) For the purposes of subregulation (1), the specified matters in relation to each safety risk are—
- (a) the identification and description of the risk; and
 - (b) an outline of the action to be taken to mitigate or eliminate the identified risk; and
 - (c) the person, or class of person, responsible for taking the action referred to in paragraph (b).

6 Review and revision of register of safety risks

A person to whom regulation 5 applies must review, and if necessary revise, a register of safety risks annually.

Division 2—Notifiable incidents

7 Notifiable incidents to be reported to the regulator

- (1) The following prescribed incidents, if they occur in relation to the use of a commercial passenger vehicle to provide a commercial passenger vehicle service, are prescribed for the purposes of section 272 of the Act—
 - (a) an incident resulting in death of or injury to any person;
 - (b) an assault of any person;
 - (c) an incident resulting in attendance by a police officer or health professional;
 - (d) an incident resulting in damage to the commercial passenger vehicle such that the vehicle is not capable of being used safely to provide or continue to provide a commercial passenger vehicle service.
- (2) The regulator is to be notified of a prescribed incident—
 - (a) in a form approved by the regulator; and
 - (b) within 72 hours after a person to whom section 272 of the Act applies becomes aware of the prescribed incident.

Part 3—Identification of commercial passenger vehicles and drivers

Division 1—Identification of commercial passenger vehicles

8 Indication that commercial passenger vehicle is being used to provide commercial passenger vehicle service

For the purposes of section 51(1)(a) of the Act, one or more of the following things must be displayed—

- (a) signs, symbols, notices or labels indicating that the motor vehicle is a commercial passenger vehicle;
- (b) signs, symbols, notices or labels identifying the registered booking service provider of the associated driver;
- (c) signs, symbols, notices or labels of a type or design approved by the regulator;
- (d) number plates identifying the vehicle as a commercial passenger vehicle of a type or design approved by the Roads Corporation and the regulator.

Examples

A sign, symbol, notice or label containing the word “taxi” or the name or logo of a booking service provider.

Division 2—Driver identification

9 Accredited driver must ensure identification is clearly visible at all times

- (1) An accredited driver must ensure that identification material is clearly visible at all times to passengers

hiring the commercial passenger vehicle driven by the accredited driver.

Penalty: 5 penalty units.

(2) This regulation does not apply if a booking service provider provides a photograph of the accredited driver and the number of the certificate of accreditation of the driver electronically to the hirer of the commercial passenger vehicle before the hirer is provided the commercial passenger vehicle service.

(3) In this regulation—

identification material means—

- (a) a card or electronic document issued by the regulator containing a photograph of the accredited driver and the number of the certificate of accreditation of the driver; or
- (b) a printed version of the electronic document referred to in paragraph (a).

Part 4—Specifications for commercial passenger vehicles

10 Commercial passenger vehicle specifications

- (1) For the purposes of regulations 11, 12 and 13, the regulator may determine specifications in relation to the following with which a commercial passenger vehicle must comply when being used to provide a commercial passenger vehicle service—
 - (a) fare calculation devices;
 - (b) accessibility and safety of wheelchair accessible commercial passenger vehicles;
 - (c) security cameras.
- (2) The specifications determinations may differ according to differences in time, place or circumstance.
- (3) The regulator must publish a specifications determination in the Government Gazette as soon as practicable after it is made.
- (4) A specifications determination takes effect on the day it is published in the Government Gazette or, if a later day is specified in the determination, on that day.
- (5) The regulator may exempt a commercial passenger vehicle from complying with a specification in a specifications determination if, in the opinion of the regulator, the specification is inappropriate to the nature or construction of the commercial passenger vehicle.

Note

The regulator may also exempt a person from a requirement under the regulations in accordance with section 283 of the Act.

11 Specifications—unbooked commercial passenger vehicle services

- (1) A Part 3 permission holder must not use, or permit the commercial passenger vehicle to be used, to provide an unbooked commercial passenger vehicle service unless a fare calculation device—
- (a) is installed in the commercial passenger vehicle; and
 - (b) complies with the specifications of a specifications determination that applies to that device.

Penalty: 20 penalty units.

- (2) Subregulation (1) does not apply if—
- (a) the regulator has exempted the vehicle under regulation 10(4) from complying with a specification that, but for the exemption, would apply in relation to the vehicle; or
 - (b) the Part 3 permission holder has been exempted under section 283 of the Act and is complying with that exemption.

12 Specifications—wheelchair accessible commercial passenger vehicles

- (1) A Part 3 permission holder must not use, or permit the commercial passenger vehicle to be used, to provide commercial passenger vehicle services to wheelchair users unless the commercial passenger vehicle complies with the specifications of a specifications determination that applies to wheelchair accessible commercial passenger vehicles.

Penalty: 20 penalty units.

- (2) Subregulation (1) does not apply if—
- (a) the regulator has exempted the vehicle under regulation 10(4) from complying with a specification that, but for the exemption, would apply in relation to the vehicle; or
 - (b) the Part 3 permission holder has been exempted under section 283 of the Act and is complying with that exemption.

13 Specifications—applicable unbooked service

- (1) A Part 3 permission holder must not use, or permit the commercial passenger vehicle to be used, to provide an applicable unbooked service unless a security camera is installed and operating in accordance with the specifications of a specifications determination that applies to that security camera.

Penalty: 20 penalty units.

- (2) A driver of a commercial passenger vehicle must not use the vehicle to provide an applicable unbooked service unless a security camera is installed and operating in accordance with the specifications of a specifications determination that applies to that security camera.

Penalty: 20 penalty units.

- (3) Subregulations (1) or (2) do not apply if—
- (a) the regulator has exempted the vehicle under regulation 10(4) from complying with a specification that, but for the exemption, would apply in relation to the vehicle; or
 - (b) the Part 3 permission holder or the driver of the commercial passenger vehicle have been

exempted under section 283 of the Act and the permission holder or driver is complying with that exemption.

CONSULTATION DRAFT

Part 5—Consumer protections

Division 1—Fares and charges

14 Definition

In this Division—

fare information means—

- (a) details of any fare schedule or rates used as the basis for calculating the fare for the journey, inclusive of GST; and
- (b) the booking fee for the hiring (if applicable); and
- (c) any additional charges, including road tolls.

15 Fare information to be provided by booking service provider

If a hirer requests fare information from a booking service provider for the hiring of a commercial passenger vehicle, the provider must—

- (a) give the hirer the fare information; or
- (b) if the booking service provider has made the fare information publicly available, advise the hirer as to where the hirer can obtain the fare information.

Penalty: 20 penalty units.

Note

A booking service provider may publish fare information on the provider's website or smartphone application, or on a brochure or flyer.

16 Unbooked commercial passenger vehicle services—fare information to be displayed

- (1) A Part 3 permission holder must not use, or permit the commercial passenger vehicle to be used, to provide an unbooked commercial passenger vehicle service unless the fare information is displayed on a notice that is fixed—
- (a) to the outside of the vehicle so as to be clearly visible from the left side of that vehicle; and
 - (b) on the inside of the vehicle in such a way that the fare information is able to be clearly read from each seating position in that vehicle.

Penalty: 20 penalty units.

- (2) A driver of a commercial passenger vehicle must not use the vehicle to provide an unbooked commercial passenger vehicle service unless the fare information is displayed on a notice that is fixed—
- (a) to the outside of the vehicle so as to be clearly visible from the left side of that vehicle; and
 - (b) on the inside of the vehicle in such a way that the fare information is able to be clearly read from each seating position in that vehicle.

Penalty: 20 penalty units.

17 Fare calculation devices—unbooked commercial passenger vehicle services

- (1) A Part 3 permission holder must not use the commercial passenger vehicle, or permit the commercial passenger vehicle to be used, to provide an unbooked commercial passenger vehicle service unless a fare calculation device

that meets the required standards is functioning in the commercial passenger vehicle.

Penalty: 10 penalty units.

- (2) A driver of a commercial passenger vehicle must not use the vehicle to provide an unbooked commercial passenger vehicle service unless a fare calculation device that meets the required standards is functioning in the commercial passenger vehicle.

Penalty: 10 penalty units.

- (3) For the purposes of subregulations (1) and (2), the required standards for a fare calculation device are that the device—
- (a) is able to be clearly read from each forward-facing seating position in the commercial passenger vehicle; and
 - (b) accurately record and display the fares and additional charges applicable to the hiring.

18 Operation of fare calculation devices—unbooked commercial passenger vehicle services

- (1) This regulation applies to a commercial passenger vehicle used to provide unbooked commercial passenger vehicle services if the driver has not agreed a fixed fare with the hirer before the hirer is provided with the service.
- (2) The driver of a commercial passenger vehicle to which this regulation applies must tell the hirer immediately if the fare calculation device changes to a different tariff during a hiring.

Penalty: 10 penalty units.

- (3) The driver of a commercial passenger vehicle to which this regulation applies must ensure that the fare calculation device is stopped immediately at the termination of a hiring.

Penalty: 10 penalty units.

19 Examination and testing of fare calculation devices

- (1) The regulator, by written notice, may require a relevant person to take a fare calculation device to a person authorised by the regulator, to have the fare calculation device examined and tested.
- (2) A notice under subregulation (1) must specify—
- (a) the name of the person authorised by the regulator to examine and test the device; and
 - (b) the place where, and the time at which, the device is to be examined or tested.
- (3) A relevant person must comply with a notice given to them under subregulation (1).

Penalty: 10 penalty units.

- (4) In this section—

relevant person means—

- (a) a Part 3 permission holder for a commercial passenger vehicle used to provide unbooked commercial passenger vehicle services; or
- (b) a driver of a commercial passenger vehicle who uses the vehicle to provide unbooked commercial passenger vehicle services.

20 Provision of fare estimate or fixed fare

- (1) If a hirer makes a booking for a commercial passenger vehicle service through a registered booking service provider and requests an estimate of the fare from the booking service provider, the booking service provider must provide the hirer with either an estimate of the fare or a fixed fare.

Penalty: 10 penalty units.

- (2) If a hirer requests an estimate of the fare for a commercial passenger vehicle service from a driver of a commercial passenger vehicle and the commercial passenger vehicle service was not arranged or facilitated by a registered booking service provider, the driver must provide the hirer with either an estimate of the fare or a fixed fare.

Penalty: 10 penalty units.

21 Receipt for hiring to include specified information

- (1) If the hirer of a commercial passenger vehicle pays the fare and any additional charges for the provision of a commercial passenger vehicle service to the driver of the vehicle, the driver of the vehicle must, if requested to do so by the hirer, provide the hirer with a receipt that includes the required information.

Penalty: 10 penalty units.

- (2) If the hirer of a commercial passenger vehicle pays the fare and any additional charges for the provision of a commercial passenger vehicle service to the booking service provider, the booking service provider must, if requested to do so by the hirer, provide the hirer with a receipt that includes the required information.

Penalty: 10 penalty units.

- (3) For the purposes of subregulations (1) and (2), the required information is—
- (a) if the receipt is provided by the driver and is not produced using electronic facilities, the driver's signature; and
 - (b) if the receipt is provided by the booking service provider, the name of the booking service provider; and
 - (c) the registration plate number of the commercial passenger vehicle; and
 - (d) the number of the certificate of accreditation of the driver; and
 - (e) all the items that make up the fare and any additional rates and charges; and
 - (f) the total amount paid; and
 - (g) the date of the payment.

Division 2—Complaints

22 Requirement for booking service provider to have a complaints management system

For the purposes of section 60(4) of the Act, the registration of a person as a booking service provider is subject to the condition that the person must—

- (a) establish, implement and maintain a complaints handling system that is consistent with AS/NZS 10002:2014; and

- (b) ensure that every relevant complaint is investigated promptly and in a manner consistent with AS/NZS 10002:2014; and
- (c) ensure that any action required to adequately address the complaint is taken promptly.

Note

Section 64 of the Act makes it an offence for a booking service provider to fail to comply with any prescribed condition to which the booking service provider's registration is subject.

23 Requirement for providers of unbooked commercial passenger vehicle services to investigate complaints

The provider of an unbooked commercial passenger vehicle service must ensure that—

- (a) every complaint relating to the provision of unbooked commercial passenger vehicle services by the provider is investigated promptly; and
- (b) any action required to adequately address the complaint is taken promptly.

Penalty: 20 penalty units.

Part 6—Operational requirements

24 Smoking prohibited

- (1) A person must not in a commercial passenger vehicle being used to provide a commercial passenger vehicle service—
 - (a) smoke, hold or otherwise have control over, an ignited or heated tobacco product; or
 - (b) use an e-cigarette to generate or release an aerosol or vapour; or
 - (c) smoke any other substances.

Penalty: 5 penalty units.

- (2) In this regulation, *e-cigarette* and *tobacco product* have the same meanings as in the **Tobacco Act 1987**.

25 Animals

- (1) The driver of a commercial passenger vehicle being used to provide a commercial passenger vehicle service must accept an animal for carriage in that vehicle if—
 - (a) the animal is an assistance animal; and
 - (b) the animal is accompanied by a hirer of the commercial passenger vehicle.

Penalty: 10 penalty units.

- (2) In this regulation—

assistance animal has the same meaning as it has in the Disability Discrimination Act 1992 of the Commonwealth.

26 Passenger assistance

The driver of a commercial passenger vehicle being used to provide a commercial passenger vehicle service must give reasonable help to passengers to get them into and out of the vehicle.

Penalty: 5 penalty units.

27 Passenger routes

- (1) This regulation does not apply to the hiring of a commercial passenger vehicle where a fixed fare is agreed between a booking service provider or a driver and the hirer.
- (2) If the hirer of a commercial passenger vehicle nominates a route to the place where the hirer wants to be taken, the driver of the commercial passenger vehicle must take that route unless the driver has a reasonable excuse for not taking that route.
Penalty: 10 penalty units.
- (3) If the hirer of a commercial passenger vehicle does not nominate the route that the hirer wishes to be taken, the driver of the commercial passenger vehicle must take the most direct and practicable route from the place where the journey commenced to the intended destination of the hirer.
Penalty: 10 penalty units.

Part 7—Identity cards for authorised officers

28 Identity cards for authorised officers appointed by the regulator

For the purposes of section 126(2)(c)(ii) of the Act, a prescribed matter is the authorised officer's appointment number or badge number.

Part 8—Records

29 Records to be kept by booking service providers

For the purposes of section 60(4) of the Act, the registration of a person as a booking service provider is subject to the condition that the booking service provider must keep a record of the information specified in Schedule 1.

Note

Section 64 of the Act makes it an offence for a booking service provider to fail to comply with any prescribed condition to which the booking service provider's registration is subject.

30 Records to be kept by providers of unbooked commercial passenger vehicle services

The provider of an unbooked commercial passenger vehicle service must keep a record of the information specified in Schedule 2.

Penalty: 10 penalty units.

31 Submission of information—booking service provider

(1) The regulator, by written notice, may direct a registered booking service provider to give to the regulator a copy of some or all of the records that the booking service provider is required to keep under regulation 29.

(2) The notice must specify—

- (a) the manner, form (including electronic) or format in which the records are to be given; and
- (b) the period of time the records are to cover; and

(c) when the records are to be given.

(3) A registered booking service provider must comply with a notice given to them under subsection (1).

Penalty: 20 penalty units.

32 Submission of information—provider of unbooked commercial passenger vehicle service

(1) The regulator, by written notice, may direct a provider of an unbooked commercial passenger vehicle service to give to the regulator a copy of some or all of the records that the provider is required to keep under regulation 30.

(2) The notice must specify—

(a) the manner, form (including electronic) or format in which the records are to be provided; and

(b) the period of time the records are to cover; and

(c) when the records are to be provided.

(3) A provider of an unbooked commercial passenger vehicle service must comply with a notice given to them under subsection (1).

Penalty: 20 penalty units.

33 Period records are to be kept

Any record required to be kept under regulations 29 and 30 must be kept—

(a) subject to paragraph (d), for a period of 5 years commencing on the date the record was created; and

- (b) in a manner that enables the records to be read or reproduced in the English language; and
- (c) in any manner, form (including electronic) or format determined by the regulator; and
- (d) in the case of a record of information specified in item 1 of Schedule 1 or Schedule 2, until the later of—
 - (i) the date that is 5 years after the date the record was created; or
 - (ii) if the record is specified in a request by the regulator made under regulation 31 or 32, before the end of the period specified in subparagraph (i), the date the regulator receives the requested record.

34 Records to be kept of non-cash payment surcharges

- (1) In this regulation—

relevant service means a non-cash payment processing service within the meaning of section 3(1) of the Act.

- (2) This regulation applies to a person who provides a relevant service that facilitates the processing of a non-cash payment transaction that is a payment of an amount that includes a non-cash payment surcharge (a *relevant transaction*).
- (3) A person to whom this regulation applies must keep records sufficient to identify—
- (a) in respect of each relevant transaction facilitated by the relevant service—
 - (i) the amount of the non-cash payment surcharge; and

- (ii) the amount that would have been payable by the hirer in respect of the hiring to which the transaction relates if the hiring had been paid for in cash; and
 - (iii) the date on which the transaction was processed; and
- (b) in respect of each day on which the relevant service facilitated the processing of a relevant transaction—
 - (i) the total amount of the non-cash payment surcharges that were added to the relevant transactions on that day; and
 - (ii) the total amount that would have been payable if the relevant transactions on that day were instead paid for in cash; and
- (c) in respect of each non-cash payment processing device supplied by the person or used to process a relevant transaction—
 - (i) if the device is programmed to add a non-cash payment surcharge that is a fixed amount, the amount of that surcharge; and
 - (ii) if the device is programmed to add a non-cash payment surcharge that is not a fixed amount, the basis on which the amount of the surcharge is determined; and
 - (iii) any day on which the programming of the device is set or changed—

- (A) to make the device add a non-cash payment surcharge; or
 - (B) to change the amount the device adds as a non-cash payment surcharge; and
 - (iv) each commercial passenger vehicle in relation to which the device is used; and
 - (v) the periods during which the device is used in relation to each commercial passenger vehicle; and
 - (vi) if the device is supplied by the person—
 - (A) each person to whom the device is supplied; and
 - (B) the period during which the device is supplied to that person.
- (4) A person to whom this regulation applies must keep the records required under subregulation (3) for a period of at least 5 years after the last entries in the records are made.

Penalty: 10 penalty units.

Note

The **Electronic Transactions (Victoria) Act 2000** provides that a requirement to keep written records is taken to have been met if the person records information in electronic form.

Schedule 1—Information to be kept by booking service providers

Regulation 29

Booked commercial passenger vehicle services

1 The following information in respect of each commercial passenger vehicle service for which the booking service provider provides booking services if the booking results in a journey—

- (a) the date and time the booking was made;
- (b) the driver accreditation number of the driver of the commercial passenger vehicle;
- (c) the registration plate number issued by the Roads Corporation of the commercial passenger vehicle booked;
- (d) the date and time the journey for which the booking was made commenced;
- (e) the address or GPS coordinate at which the journey for which the booking was made commenced;
- (f) the date and time the journey for which the booking was made ended;
- (g) the address or GPS coordinate at which the journey for which the booking was made ended;
- (h) the distance travelled;
- (i) the full amount charged for the journey.

Complaints

2 The following information in respect of each relevant complaint made to the booking service provider—

- (a) the date the complaint was received;

- (b) the nature of the complaint;
- (c) the capacity in which the complainant made the complaint (for example, as a customer, driver or member of the public);
- (d) the name and the address or other contact details of the complainant;
- (e) all actions taken by or on behalf of the booking service provider in response to the complaint;
- (f) the date and time that the actions referred to in paragraph (e) were taken;
- (g) the outcome of the complaint.

Schedule 2—Information to be kept by providers of unbooked commercial passenger vehicle services

Regulation 30

Unbooked commercial passenger vehicle services

The following information in respect of each unbooked commercial passenger vehicle service—

- (a) the driver accreditation number of the driver providing the service;
- (b) the registration plate number issued by the Roads Corporation for the vehicle;
- (c) the date and time the journey for which the hiring was made commenced;
- (d) the address or GPS coordinate at which the journey for which the hiring was made commenced;
- (e) the date and time the journey for which the hiring was made ended;
- (f) the address or GPS coordinate at which the journey for which the hiring was made ended;
- (g) the distance travelled;
- (h) the full amount charged for the journey resulting from a hiring.

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2018 is \$x.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter was included in S.R. No. x/2018 accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2014.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 22	Standard AS/NZS 10002:2014 Guidelines for complaint management in organizations (ISO 10002.2014, MOD incorporating Amendment No. 1), published by Standards Australia on 29 October 2014	The whole