

TASMANIA

**PASSENGER TRANSPORT AND RELATED
LEGISLATION (CONSEQUENTIAL
AMENDMENTS) BILL 2011**

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**PASSENGER TRANSPORT AND RELATED
LEGISLATION (CONSEQUENTIAL
AMENDMENTS) BILL 2011**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
22 November 2011

*(Brought in by the Minister for Sustainable Transport, the
Honourable Nicholas James McKim)*

A BILL FOR

An Act to amend certain legislation and repeal and rescind certain legislation consequent on the enactment of the *Passenger Transport Services Act 2011* and the *Taxi and Luxury Hire Car Industries Amendment Act 2011*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Passenger Transport and Related Legislation (Consequential Amendments) Act 2011*.

THIS BILL IS COGNATE WITH THE *PASSENGER TRANSPORT SERVICES BILL 2011* AND
THE *TAXI AND LUXURY HIRE CAR INDUSTRIES AMENDMENT BILL 2011*

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2. Commencement

- (1) Sections 1 and 4 and this section commence on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act commence on a day to be proclaimed.

3. Further amendment of statutory rules

The amendment by this Act of any statutory rules does not bar their subsequent amendment by further statutory rules of the same kind.

4. Amendment of Schedule 1

- (1) This section applies if, before section 6 commences, the Governor on the advice of the Minister administering the *Passenger Transport Services Act 2011* is satisfied in respect of any statutory rules whose provisions are proposed to be consequentially amended by Schedule 1 –
 - (a) that the statutory rules are to be, or have been, for any reason rescinded or revoked by legislation other than this Act (“**other legislation**”); or
 - (b) that the statutory rules are to be, or have been, for any reason amended by other legislation in a way that will render, or has rendered, a proposed consequential

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amendment in Schedule 1 incompatible with the statutory rules as proposed to be amended, or as amended, by that other legislation.

- (2) The Governor, by order, may amend Schedule 1 by omitting the whole or any part of the consequential amendments relating to the statutory rules concerned.

5. Repeal of Act

This Act is repealed on the ninetieth day from the day on which all of the provisions of this Act commence.

6. Consequential amendments

The legislation specified in Schedule 1 is amended as specified in that Schedule.

7. Legislation repealed

The legislation specified in Schedule 2 is repealed.

8. Legislation rescinded

The legislation specified in Schedule 3 is rescinded.

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SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 6

Annulled Convictions Act 2003

1. Section 7(1) is amended by omitting paragraph (b) from the definition of “traffic offence” and substituting:
 - (b) an offence under the *Passenger Transport Services Act 2011* or *Taxi and Hire Vehicle Industries Act 2008*; or

Economic Regulator Act 2009

1. Section 44 is amended as follows:
 - (a) by omitting from subsection (2)(b) “*Taxi and Luxury Hire Car Industries Act 2008*” and substituting “*Taxi and Hire Vehicle Industries Act 2008*”;
 - (b) by omitting from subsection (5) “*Taxi and Luxury Hire Car Industries Act 2008*” and substituting “*Taxi and Hire Vehicle Industries Act 2008*”.

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Justices Rules 2003

1. Schedule 2 is amended as follows:
 - (a) by omitting “*Passenger Transport Act 1997*” from column 2 of item 19 in the table and substituting “*Passenger Transport Services Act 2011*”;
 - (b) by omitting “*Taxi and Luxury Hire Car Industries Act 2008*” from column 2 of item 26 in the table and substituting “*Taxi and Hire Vehicle Industries Act 2008*”.

Litter Act 2007

1. Section 30(1) is amended by omitting paragraph (a).

Local Government (Highways) Act 1982

1. Section 97(11)(d) is amended by omitting “registered as a hire and drive vehicle under the *Vehicle and Traffic Act 1999*” and substituting “operating a hire and drive passenger service within the meaning of the *Passenger Transport Services Act 2011*”.

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Luxury Hire Car Industry Regulations 2008

1. Regulation 3 is amended by omitting “*Taxi and Luxury Hire Car Industries Act 2008*” from the definition of “Act” and substituting “*Taxi and Hire Vehicle Industries Act 2008*”.
2. Regulation 6(d) is amended by omitting “in accordance with Part 2A of the *Passenger Transport Act 1997*” and substituting “under the *Passenger Transport Services Act 2011*”.
3. Regulation 28(1) is amended by omitting “*Taxi and Luxury Hire Car Industries Act 2008*” from the definition of “current Act” and substituting “*Taxi and Hire Vehicle Industries Act 2008*”.

Road Rules 2009

1. Rule 354(1) is amended by omitting paragraphs (a) and (b) and substituting the following paragraphs:
 - (a) finds the person committing an offence against the Act, the *Passenger Transport Services Act 2011* or the *Taxi and Hire Vehicle Industries Act 2008*; or
 - (b) reasonably believes that the person has committed an offence against the Act, the *Passenger Transport Services Act 2011*

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or the *Taxi and Hire Vehicle Industries
Act 2008*.

Note 1: *Act*, *authorised person* and *police officer* are defined in the dictionary.

Note 2: An offence against the *Road Rules* is an offence against the Act.

Note 3: Rule 304 also deals with directions by police officers and authorised persons, being directions for the safe and efficient regulation of traffic.

2. Division 1 of Part 2 of Schedule 6 is amended as follows:

- (a) by omitting clause 10 and substituting the following clause:

10. Public bus

- (1) A vehicle is declared to be a public bus for rule 183 if it is a bus that is –

- (a) being operated for the purposes of carrying passengers; and
- (b) not being operated for personal private use within the meaning of section 6 of the *Passenger Transport Services Act 2011*.

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- (2) A vehicle is declared to be a public bus for the *Road Rules* if it is –
- (a) a bus that is being used to operate an authorised regular passenger service within the meaning of the *Passenger Transport Services Act 2011*; or
 - (b) a bus that is –
 - (i) registered in another State or a Territory; and
 - (ii) permitted under a law of that State or Territory to operate as a public passenger vehicle; and
 - (iii) operating, under charter in this State, a passenger transport service within the meaning of the *Passenger Transport Services Act 2011*.
- (b) by omitting from clause 12 “*Taxi and Luxury Hire Car Industries Act 2008*”

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and substituting “*Taxi and Hire Vehicle
Industries Act 2008*”.

Road Safety (Alcohol and Drugs) Act 1970

1. Section 2(2A) is amended by omitting paragraph (a) and substituting the following paragraph:
 - (a) a motor vehicle that is being used to operate a passenger transport service within the meaning of the *Passenger Transport Services Act 2011*; or

2. Section 7(3A) is amended as follows:
 - (a) by omitting “public passenger vehicle as defined in the *Passenger Transport Act 1997*” and substituting “motor vehicle that is being used to operate a passenger transport service within the meaning of the *Passenger Transport Services Act 2011*”;
 - (b) by omitting “public passenger vehicle” second occurring and substituting “motor vehicle”.

Taxi Industry Regulations 2008

1. Regulation 3(1) is amended by omitting the definition of “Act” and substituting the following definition:

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“Act” means the *Taxi and Hire Vehicle
Industries Act 2008*;

2. Regulation 10(c) is amended by omitting “in accordance with Part 2A of the *Passenger Transport Act 1997*” and substituting “under the *Passenger Transport Services Act 2011*”.
3. Regulation 12(e) is amended by omitting “in accordance with Part 2A of the *Passenger Transport Act 1997*” and substituting “under the *Passenger Transport Services Act 2011*”.
4. Regulation 26 is amended by omitting subregulation (3) and substituting the following subregulation:
 - (3) Subregulation (1) does not apply to a vehicle that is being used to provide a restricted hire vehicle service under the *Taxi and Hire Vehicle Industries Act 2008*.
5. Regulation 59 is rescinded.
6. Clause 1 of Schedule 1 is amended by omitting paragraph (a) and substituting the following paragraph:

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- (a) the vehicle must –
- (i) not have more than 12 seats; and
 - (ii) be designed and constructed primarily for the purpose of carrying passengers;

*Taxi and Luxury Hire Car Industries (Review of Decisions)
Regulations 2010*

1. Regulation 1 is amended by omitting “*Luxury Hire Car*” and substituting “*Hire Vehicle*”.
2. Regulation 3 is amended by omitting the definition of “Act” and substituting the following definition:

“Act” means the *Taxi and Hire Vehicle Industries Act 2008*;

Traffic Act 1925

1. Section 3(1) is amended by omitting the definition of “public passenger vehicle” and substituting the following definition:

“**public passenger vehicle**” means a motor vehicle that is used to operate a passenger transport service within the meaning of the *Passenger Transport Services Act 2011*;

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Transport Act 1981

1. Section 6(1) is amended by omitting paragraph (c) and substituting the following paragraphs:
 - (c) to administer the *Taxi and Hire Vehicle Industries Act 2008* and *Traffic Act 1925*; and
 - (ca) to administer such provisions of the *Passenger Transport Services Act 2011* as may confer powers and functions on the Commission or relate to the exercise and performance of those powers and functions; and

2. Section 22 is amended as follows:
 - (a) by omitting from subsection (1)(a) “, the *Passenger Transport Act 1997*, the *Taxi and Luxury Hire Car Industries Act 2008* or the *Traffic Act 1925*”;
 - (b) by inserting the following paragraph after paragraph (a) in subsection (1):
 - (ab) matters affecting the administration of any related Act, or Parts or provisions thereof, that may be for the time being administered by the Minister;
 - (c) by inserting the following subsection after subsection (13):

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(14) In this section –

“related Act” means –

- (a) the *Traffic Act 1925*;
and
- (b) the *Passenger Transport Services Act 2011*; and
- (c) the *Taxi and Hire Vehicle Industries Act 2008*; and
- (d) the *Vehicle and Traffic Act 1999*.

Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2010

1. Regulation 3(1) is amended as follows:

- (a) by inserting the following definition after the definition of “hierarchy of licence classes”:

“hire and drive vehicle” means a vehicle used to operate a hire and drive passenger service within the meaning of the *Passenger Transport Services Act 2011*;

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- (b) by omitting the definition of “large passenger vehicle” and substituting the following definition:

“large passenger vehicle” has the same meaning as in the *Passenger Transport Services Act 2011*;

- (c) by omitting the definition of “luxury hire car” and substituting the following definition:

“luxury hire car” has the same meaning as in the *Taxi and Hire Vehicle Industries Act 2008*;

- (d) by inserting the following definition after the definition of “residential address”:

“restricted hire vehicle” has the same meaning as in the *Taxi and Hire Vehicle Industries Act 2008*;

- (e) by omitting the definition of “small passenger vehicle” and substituting the following definition:

“small passenger vehicle” has the same meaning as in the *Passenger Transport Services Act 2011*;

- (f) by omitting the definition of “taxi” and substituting the following definition:

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“taxi” has the same meaning as in the
*Taxi and Hire Vehicle Industries
Act 2008*;

2. Regulation 48 is rescinded.
3. Regulation 52 is amended by omitting subregulation (3).
4. Regulation 57 is amended by omitting subregulation (5).
5. Regulation 85 is rescinded and the following regulation is substituted:
85. Basis for issue of formal warning notice or defect notice
 - (1) This regulation applies if a police officer or authorised officer is of the opinion that a motor vehicle or trailer is defective and, as a result of the defect –
 - (a) the vehicle is or may be unroadworthy; or
 - (b) the vehicle does not comply with the relevant vehicle standards; or

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- (c) the vehicle does not comply with some other statutory requirement including, in the case of a public passenger vehicle, a statutory requirement under a related law.
- (2) The police officer or authorised officer may –
 - (a) warn the driver that the vehicle is defective; or
 - (b) issue a vehicle defect notice in respect of the vehicle.
- (3) In this regulation –

“public passenger vehicle” means a motor vehicle that is used to operate a passenger transport service within the meaning of the *Passenger Transport Services Act 2011*;

“related law” means –

- (a) the *Passenger Transport Services Act 2011* and the regulations in force under that Act; and
- (b) the *Taxi and Hire Vehicle Industries Act 2008* and the regulations in force under that Act.

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6. Regulation 87 is amended as follows:

- (a) by omitting from subregulation (4)(a) “for reward”;
- (b) by inserting the following subregulation after subregulation (8):
 - (9) In this regulation –

“public passenger vehicle”
means a motor vehicle that is used to operate a passenger transport service within the meaning of the *Passenger Transport Services Act 2011*;

“repairs” includes, in the case of the non-compliance referred to in regulation 85(1)(c), the works or other actions required to address the non-compliance.

7. Regulation 102 is amended as follows:

- (a) by omitting subregulation (3) and substituting the following subregulations:
 - (3) In its application to large passenger vehicles, a vehicle

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inspection program may provide for –

- (a) the initial inspection of public passenger vehicles (other than taxis) and hire and drive vehicles that are not more than 12 months old; and
 - (b) the inspection at 12-monthly intervals of public passenger vehicles (other than taxis) and hire and drive vehicles that are more than 12 months old; and
 - (c) the inspection at 6-monthly intervals of public passenger vehicles (other than taxis) and hire and drive vehicles that are more than 15 years old.
- (3A) In its application to small passenger vehicles, a vehicle inspection program may provide for –
- (a) the initial inspection of public passenger vehicles (other than taxis), luxury hire cars and restricted hire vehicles that are not

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more than 3 years old;
and

- (b) the inspection at 12-monthly intervals of public passenger vehicles (other than taxis), hire and drive vehicles, luxury hire cars and restricted hire vehicles that are more than 3 years old; and
- (c) the inspection at 6-monthly intervals of public passenger vehicles (other than taxis), hire and drive vehicles, luxury hire cars and restricted hire vehicles that are more than 15 years old; and
- (d) the initial inspection of public passenger vehicles that are taxis and not more than 12 months old; and
- (e) the inspection at 6-monthly intervals of public passenger vehicles that are taxis and more than 12 months old; and
- (f) in the case of public passenger vehicles that

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are taxis (where those vehicles had been used for other purposes before first being used as taxis or were second-hand when first used as taxis) initial inspection and then subsequent inspection at 6-monthly intervals.

- (b) by omitting from subregulation (4) “subregulation (3)” and substituting “subregulation (3) or (3A)”;
- (c) by inserting the following subregulation after subregulation (11):

(12) In this regulation –

“public passenger vehicle”
means a motor vehicle that is used to operate a passenger transport service within the meaning of the *Passenger Transport Services Act 2011*.

8. Schedule 1 is amended as follows:

- (a) by omitting “registered as a public passenger vehicle or a hire and drive vehicle” from column 2 of paragraph (a) of item 39 in the third table and

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substituting “used to operate a passenger transport service or hire and drive passenger service within the meaning of the *Passenger Transport Services Act 2011*”;

- (b) by omitting “registered as a public passenger vehicle” from column 2 of paragraph (b) of item 39 in the third table and substituting “used to operate a passenger transport service or hire and drive passenger service within the meaning of the *Passenger Transport Services Act 2011*”.

Vehicle and Traffic (Vehicle Standards) Regulations 2001

1. Regulation 104 is amended as follows:

- (a) by omitting from subregulation (2)(c) “regular passenger transport service” and substituting “regular passenger service”;
- (b) by omitting subregulation (3) and substituting the following subregulation:

(3) For subregulation (2) –

“regular passenger service”
has the same meaning as
in the *Passenger
Transport Services Act
2011*.

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Vehicle and Traffic Act 1999

1. Section 3(1) is amended as follows:

(a) by omitting the definition of “public passenger vehicle” and substituting the following definition:

“public passenger vehicle” means, except as the regulations or any of the regulations may otherwise provide, a motor vehicle that is –

(a) used to operate a regular passenger service within the meaning of the *Passenger Transport Services Act 2011*; or

(b) used to operate a passenger service, within the meaning of the *Passenger Transport Services Act 2011*, having the following characteristics:

(i) the passenger service is a transport concern within the meaning of that Act;

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(ii) the passenger service is available for use by any member of the general public;

(iii) the passengers, or any of them, have to pay a fare within the meaning of that Act;

(b) by inserting the following definition after the definition of “restricted driver licence”:

“restricted hire vehicle” has the same meaning as in the *Taxi and Hire Vehicle Industries Act 2008*;

2. Section 15(1) is amended by omitting “on a public street for the purpose of carrying passengers for reward”.
3. Section 33 is repealed.
4. Section 49(7) is amended by omitting paragraphs (b) and (c) from the definition of “related Act” and substituting:

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- (b) the *Taxi and Hire Vehicle Industries Act 2008*; or
- (c) the *Passenger Transport Services Act 2011*; or

Workers Rehabilitation and Compensation Act 1988

1. Section 4DA(3) is amended as follows:

- (a) by omitting “*Taxi and Luxury Hire Car Industries Act 2008*” from the definition of “licensee” and substituting “*Taxi and Hire Vehicle Industries Act 2008*”;
- (b) by omitting “*Taxi and Luxury Hire Car Industries Act 2008*” from the definition of “luxury hire car” and substituting “*Taxi and Hire Vehicle Industries Act 2008*”.

2. Section 4DB(3) is amended as follows:

- (a) by omitting “*Taxi and Luxury Hire Car Industries Act 2008*” from paragraph (a) of the definition of “responsible operator” and substituting “*Taxi and Hire Vehicle Industries Act 2008*”;
- (b) by omitting “*Taxi and Luxury Hire Car Industries Act 2008*” from paragraph (b) of the definition of “responsible

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operator” and substituting “*Taxi and Hire Vehicle Industries Act 2008*”;

- (c) by omitting “*Taxi and Luxury Hire Car Industries Act 2008*” from the definition of “taxi” and substituting “*Taxi and Hire Vehicle Industries Act 2008*”;
- (d) by omitting “*Taxi and Luxury Hire Car Industries Act 2008*” from the definition of “taxi licence” and substituting “*Taxi and Hire Vehicle Industries Act 2008*”.

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SCHEDULE 2 – LEGISLATION REPEALED

Section 7

Passenger Transport Act 1997 (No. 52 of 1997)

*Passenger Transport (Consequential and Transitional) Act
1997 (No. 53 of 1997)*

*Passenger Transport (Transitional Regulations Validation)
Act 2002 (No. 32 of 2002)*

Passenger Transport Amendment Act 2007 (No. 19 of 2007)

*Taxi and Luxury Hire Car Industries (Consequential
Amendments) Act 2008 (No. 31 of 2008)*

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SCHEDULE 3 – LEGISLATION RESCINDED

Section 8

Passenger Transport Regulations 2000 (No. 65 of 2000)

Passenger Transport (Review of Decisions) Regulations 2000
(No. 67 of 2000)

Passenger Transport Amendment Regulations 2000 (No. 139
of 2000)

*Passenger Transport Amendment (Continuation) Regulations
2001* (No. 140 of 2001)

Passenger Transport Amendment Regulations 2003 (No. 99 of
2003)

Passenger Transport Amendment Regulations 2005 (No. 105
of 2005)

Passenger Transport Amendment Regulations 2007 (No. 72 of
2007)

*Passenger Transport Amendment (Community Transport)
Regulations 2008* (No. 124 of 2008)

Luxury Hire Car Industry (Rescission) Regulations 2008 (No.
139 of 2008)

*Passenger Transport Amendment (Community Transport)
Regulations 2009* (No. 161 of 2009)

Passenger Transport Amendment Regulations 2009 (No. 193
of 2009)

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*Passenger Transport Amendment (Community Transport)
Regulations 2010 (No. 132 of 2010)*