

SECOND READING SPEECH

(The Hon Nick McKim MP)

PASSENGER TRANSPORT AMENDMENT

(Accreditation Status and Validation of Actions)

BILL 2011

Mr McKim (Minister for Sustainable Transport) – I
move:

That this Bill be now read a second time.

MR SPEAKER / MADAM PRESIDENT

I present to the House today the *Passenger Transport Amendment (Accreditation Status and Validation of Actions) Bill 2011*.

The purpose of this Bill is to correct a number of administrative errors that have occurred during the administration of transport operator accreditation under the *Passenger Transport Act 1997* (PTA). This Act provides the legislative basis for the management of accreditation and the Act requires a person who provides a public passenger service or a hire and drive service to be accredited.

This Bill will rectify a problem with the accreditation status of numerous passenger transport operators. This situation has arisen following a failure by the Department of Infrastructure, Energy & Resources (DIER) to comply with the requirements of the *Passenger Transport Act 1997* (PTA), in renewing operators' accreditation. As a result, operators who should have had their accreditation renewed after five years, have not been so renewed.

The potential ramifications of this practice were identified late in the process of drafting the new *Passenger Transport Services Bill 2011* which is intended to replace the PTA. Accordingly, advice was sought from the Solicitor-General as to the legal status of these operators in respect to their accreditation. The Solicitor-General has confirmed that the actions taken by DIER to renew operator accreditation were not in accordance with the legislation, with DIER not observing the renewal process laid down by the PTA.

The process specified in the PTA requires operators to make application for renewal by a form approved by the Transport Commission. It also requires them to pay a fee of 50 fee units, which equates to \$70 in 2011/12.

Because DIER did not actually apply these requirements to any operators, the Solicitor-General

has advised that the accreditation of these operators was not renewed. Prior to this advice, the Transport Commission had continued to regard every one of these operators as having valid accreditation during the relevant period, and continued to deal with operators on this basis.

Because accreditation lasts for five years, and then must be renewed, the failure to renew accreditation relates only to those operators who have now been accredited for more than five years. In other words, it is of relevance only to operators that were *first* accredited prior to 2007.

At present there are around 920 passenger transport operators in the State, and this includes bus operators of all kinds, together with taxi, luxury hire car and limited passenger service operators. It is estimated that some 670 of these operators have not had their accreditation renewed.

I stress that, while these operators have not had their accreditation renewed, the failure to renew accreditation in accordance with the PTA has not compromised the safety of Tasmania's passenger transport services.

Operators are required to be fully compliant with the conditions of accreditation, which includes vehicle maintenance and driver licensing systems. Reviews of an accredited operator's safety systems are undertaken on a regular basis through scheduled audits. Vehicles are required to be inspected regularly through 6 monthly or annual inspections.

Random inspections of buses and taxis are also undertaken by Transport Inspectors. Operators not performing at the required standard are dealt with at the time.

Nevertheless, it is essential that these passenger transport businesses have full certainty as to their

legal position in terms of their accreditation. The Solicitor-General has recommended validating legislation to rectify this problem by confirming the status of existing accredited operators and actions taken by them under their accreditation.

This Bill implements that advice with clauses that will amend the PTA by retrospectively repealing references to the renewal of accreditation in that Act. These repeal provisions will be taken to have had effect from 27 June 2000, which is the day after the PTA commenced. This will validate the past legal status of operators whose accreditation should have been renewed.

The repeal of the 'renewal' sections of the PTA via this Bill is considered the only viable option, as the proposed new legislation removes the requirement for periodical renewals altogether.

While this situation could be corrected administratively before the PTA is replaced by a new Act, doing so would mean compelling all of these operators to make formal application to renew their accreditation and pay the prescribed renewal fee.

Obviously, such a solution would be unduly burdensome for operators who are not at fault in this situation. Further, their accredited status would remain open to potential question for a considerable period while applications were made, assessed and determined.

Under the proposed Passenger Transport Services Bill, accreditation will be made ongoing, removing the need for periodic renewal and making such a renewal process under the PTA redundant.

Mr SPEAKER

I now turn to the other administrative errors that need to be addressed.

While investigating the administrative processes employed by DIER to manage renewal of accreditation it also came to light that there are doubts about the standing of delegations issued by the Transport Commission.

In addition, it was identified that a number of administrative decisions relating to cancellation and suspension of accreditation had been taken by officers of DIER who had not been delegated the power to make such decisions in their own right.

In most cases, the decisions involved operators who had not complied with their audit requirements as they had already left the industry.

This means any delegations purportedly exercised under the PTA would be invalid and therefore would have no effect. The result is that there are operators whose accreditation has been suspended or cancelled without proper authority.

The passage of this Bill will ensure that any delegation made or purportedly made by the Transport Commission will be taken to have been validly made and any action taken by any person in DIER in relation to the cancellation or suspension of an operator's accreditation is taken to have been authorised by the Transport Commission.

Mr SPEAKER

In closing, while this represents a serious administrative error, which this Bill will correct, I ask Members to note that it would appear that no member of the community, or any accredited operator, has suffered any apparent loss or unfair advantage as a result of DIER's failure to renew accreditation, or to properly delegate the Transport Commission's powers, or because of decisions made around suspensions and cancellations that were not made with proper legal authority.

DIER has undertaken an internal audit of its administrative processes that it has in place to manage operator accreditation and I have asked the Secretary to put in place any remedial measures considered appropriate.

I would also like to reiterate that the failure to renew accreditations, or suspend and cancel accreditations, in accordance with the *Passenger Transport Act 1997*, has not compromised the safety of Tasmania's passenger transport services.

I commend the Bill to the House.