

TASMANIA

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**ON-DEMAND PASSENGER TRANSPORT  
SERVICES INDUSTRY (MISCELLANEOUS  
AMENDMENTS) BILL 2020**

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**ON-DEMAND PASSENGER TRANSPORT  
SERVICES INDUSTRY (MISCELLANEOUS  
AMENDMENTS) BILL 2020**

*(Brought in by the Minister for Infrastructure and Transport,  
the Honourable Michael Darrel Joseph Ferguson)*

**A BILL FOR**

**An Act to amend the *Passenger Transport Services Act 2011*  
and the *Taxi and Hire Vehicle Industries Act 2008***

Be it enacted by Her 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:

**PART 1 – PRELIMINARY**

**1. Short title**

This Act may be cited as the *On-Demand  
Passenger Transport Services Industry  
(Miscellaneous Amendments) Act 2020*.

**2. Commencement**

The provisions of this Act commence on a day  
or days to be proclaimed.

*On-Demand Passenger Transport Services Industry  
(Miscellaneous Amendments) Act 2020  
Act No. of 2020*

s. 3

Part 2 – Economic Regulator Act 2009 Amended

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**PART 2 – ECONOMIC REGULATOR ACT 2009  
AMENDED**

**3. Principal Act**

In this Part, the *Economic Regulator Act 2009*\* is referred to as the Principal Act.

**4. Section 45A inserted**

After section 45 of the Principal Act, the following section is inserted in Part 5:

**45A. Matters to be considered in inquiry**

In conducting an inquiry under this Part, the Regulator is to consider the following matters:

- (a) the efficient cost of providing taxi services;
- (b) the need for greater efficiency in the supply of taxi services so as to reduce costs for the benefit of consumers and taxpayers;
- (c) the protection of consumers from abuses of monopoly or cartel power in relation to prices and standards of service;

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\*No. 58 of 2009



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Part 2 – Economic Regulator Act 2009 Amended

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- (d) the social impact of the setting of taxi fares in accordance with the results of the inquiry;
  - (e) the effect, of the setting of taxi fares in accordance with the results of the inquiry, on the use of taxis and other modes of passenger transport;
  - (f) standards of quality, reliability and safety in relation to taxis, whether those standards are set by legislation, agreement or otherwise;
  - (g) the degree to which the structure of taxi fares set having regard to the results of the inquiry is comprehensible to passengers and operators of taxi services;
  - (h) ensuring taxi fares are not discriminatory between classes of consumers and classes of operators of taxi services;
  - (i) any other matter set out in the direction under section 44(1) in relation to the scope of the inquiry;
  - (j) any other matter the Regulator considers relevant.

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Part 3 – Passenger Transport Services Act 2011 Amended

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**PART 3 – PASSENGER TRANSPORT SERVICES ACT  
2011 AMENDED**

**5. Principal Act**

In this Part, the *Passenger Transport Services Act 2011*\* is referred to as the Principal Act.

**6. Section 3 amended (Interpretation)**

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definitions after the definition of *accredited operator*:

***affiliated operator*** means an accredited operator who, under a contract or agreement in writing with a booking service provider, uses the safety, security and related systems of the booking service provider;

***annual fee*** means a fee prescribed under section 24A;

- (b) by inserting the following definition after the definition of *authorised*:

***authorised officer*** means a person authorised by the Commission,

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\*No. 59 of 2011

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Part 3 – Passenger Transport Services Act 2011 Amended

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under section 9(2) of the *Traffic Act 1925*, in relation to a power or act under that Act or the *Vehicle and Traffic Act 1999*;

- (c) by inserting the following definition after the definition of *body politic*:

***booking service provider*** means a person who is a booking service provider under section 8A;

- (d) by inserting the following definition after the definition of *hire and drive passenger service*:

***improvement notice*** means a notice served under section 61A(1), as amended, if at all, under section 61A(7);

- (e) by inserting the following definition after the definition of *notify*:

***on-demand passenger transport service*** means a passenger transport service in relation to which a fare-paying passenger is transported, in a manned small passenger vehicle, to a destination nominated by the passenger, but does not include a regular passenger service;

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(Miscellaneous Amendments) Act 2020  
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Part 3 – Passenger Transport Services Act 2011 Amended

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- (f) by inserting the following definition after the definition of *regular passenger service*:

***registered operator***, in relation to a vehicle, has the same meaning as in the *Vehicle and Traffic Act 1999*;

- (g) by inserting the following definitions after the definition of *responsible person*:

***ride-sourcing driver*** means a person who arranges, by means of ride-sourcing software, to carry on journeys in a ride-sourcing vehicle driven by the person, passengers who –

- (a) arrange, by means of ride-sourcing software, to be so carried; and
- (b) provide to the person financial consideration for such journeys only by means of a system for electronic transfer of funds that is provided as part of the ride-sourcing software;

***ride-sourcing software*** means computer software that enables –

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Part 3 – Passenger Transport Services Act 2011 Amended

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- (a) requests, for passengers to be carried on journeys in motor vehicles, to be received; and
- (b) such requests to be communicated to, and accepted by, drivers of motor vehicles; and
- (c) such passengers to provide to such drivers financial consideration, for carriage on such journeys, only by way of the electronic transfer of funds by a system that is provided; and
- (d) identification of, and recording of the details of, such drivers and vehicles and the origin, destination and duration of such journeys; and
- (e) satisfaction rating services to be provided –

by means of the computer software;

***ride-sourcing vehicle*** means a small passenger vehicle that is used by a person to carry on journeys, in

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(Miscellaneous Amendments) Act 2020  
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Part 3 – Passenger Transport Services Act 2011 Amended

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the vehicle, driven by the person,  
passengers who –

- (a) arrange, by means of ride-sourcing software, to be so carried; and
- (b) provide to the person financial consideration for such journeys only by means of a system for electronic transfer of funds that is provided as part of the ride-sourcing software;
- (h) by inserting “or a motor vehicle that is approved under the *Taxi and Hire Vehicle Industries Act 2008* for use as a wheelchair-accessible taxi, a remote area wheelchair-accessible taxi or a substitute wheelchair-accessible taxi” after “seats” in the definition of *small passenger vehicle*.

**7. Section 8A inserted**

After section 8 of the Principal Act, the following section is inserted in Part 1:

**8A. Meaning of booking service provider**

- (1) For the purposes of this Act, a person is a booking service provider if the person carries on the business of –

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(Miscellaneous Amendments) Act 2020  
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Part 3 – Passenger Transport Services Act 2011 Amended

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- (a) receiving requests for persons to be transported for financial consideration by a small passenger vehicle (other than a luxury hire car, or a restricted hire vehicle, each within the meaning of the *Taxi and Hire Vehicle Industries Act 2008*) that is being operated as part of a passenger transport service; and
    - (b) arranging or facilitating the acceptance of those requests by or on behalf of drivers of small passenger vehicles.
  - (2) In determining whether a person (the *service provider*) is a booking service provider, it does not matter –
    - (a) whether or not the transport of a person by a small passenger vehicle is provided by a driver as an agent, bailee or employee of the service provider; or
    - (b) whether the agreement or arrangement in accordance with which the transport of a person by a small passenger vehicle is provided is between –
      - (i) the driver and passenger;  
or

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Part 3 – Passenger Transport Services Act 2011 Amended

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- (ii) the service provider and either the driver or passenger; or
    - (iii) any other persons; or
  - (c) whether the fare or other consideration for the transport of a person by a small passenger vehicle is paid to the driver by –
    - (i) the service provider; or
    - (ii) the passenger; or
    - (iii) any other person; or
  - (d) whether or not an act referred to in paragraph (a) or (b) involves the use of a wholly or partly automated electronic system, including ride-sourcing software; or
  - (e) whether or not the service provider is located outside the State; or
  - (f) whether or not the service provider also receives requests for persons to be carried as passengers outside the State.
- (3) A person who owns, operates or controls a wholly or partly automated electronic system, which may include ride-sourcing



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software, that performs the acts referred to in paragraph (a) or (b) is taken to be a booking service provider.

- (4) A person prescribed for the purposes of this subsection is taken to be a booking service provider.
- (5) A person prescribed for the purposes of this subsection is not taken to not be a booking service provider, despite anything to the contrary in the other provisions of this section.

**8. Section 10 amended**

Section 10 of the Principal Act is amended as follows:

- (a) by renumbering the section as subsection (1);
- (b) by inserting in subsection (1) “and that accreditation is not suspended” after “that service”;
- (c) by inserting the following subsection after subsection (1):
  - (2) Subsection (1) does not apply in relation to the operation, for the purposes of a passenger transport service, by a ride-sourcing driver of a ride-sourcing vehicle under

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Part 3 – Passenger Transport Services Act 2011 Amended

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an arrangement with a booking service provider.

**9. Section 11 amended (What is a passenger transport service operator?)**

Section 11(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b)(ii) “concern.” and substituting “concern; or”;
- (b) by inserting the following paragraph after paragraph (b):
  - (c) the person is a booking service provider.

**10. Section 21 amended (Approval of application for accreditation)**

Section 21(3) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “service.” and substituting “service; and”;
- (b) by inserting the following paragraph after paragraph (d):
  - (e) that the accredited operator develop and maintain a system for managing risks to safety and

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Part 3 – Passenger Transport Services Act 2011 Amended

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security relating to the  
performance of the service.

**11. Section 23 amended (Accreditation Register)**

Section 23 of the Principal Act is amended by inserting after subsection (4) the following subsections:

- (5) If there are reasonable grounds for believing that the information kept in the Accreditation Register is inaccurate, misleading or incomplete, the Commission may, by written notice to an accredited operator, or, if there is a relevant responsible person in relation to an accredited operator, the relevant responsible person, require the accredited operator or relevant responsible person, respectively, to do one or more of the following:
  - (a) to provide information that the Commission considers necessary to correct or complete the relevant entry in the Accreditation Register;
  - (b) to provide, in a form specified by the Commission in the notice, evidence of the correctness of the information provided under paragraph (a);

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- (c) to provide, for inspection by the Commission, documents specified in the notice;
  - (d) to attend, at a time and place specified in the notice, for identification.
- (6) If a natural person is required by a notice under subsection (5) to attend for identification, the Commission may, at the request of the person, change the time or place, or both, specified in the notice as the time or place at which the person is to attend and if the Commission makes such a change, the notice is taken to have been amended so as to reflect that change.
- (7) An accredited operator or a relevant responsible person must comply with a requirement specified in a notice given to the operator or person under subsection (5).

Penalty: Fine not exceeding –

- (a) 50 penalty units for a body corporate or body politic; and
- (b) 25 penalty units for an individual.

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Part 3 – Passenger Transport Services Act 2011 Amended

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**12. Section 24 substituted**

Section 24 of the Principal Act is repealed and the following sections are substituted:

**24. Continuity fees**

- (1) An accredited operator must pay the continuity fees, if any, prescribed by the regulations, by the day specified by the Commission, by a notice to the accredited operator, as the day by which the fees are to be paid.
- (2) If an accredited operator fails to pay under subsection (1) a continuity fee by the day specified in the notice under that subsection to the accredited operator as the day by which the fee is to be paid –
  - (a) the Commission, by notice to the accredited operator, may demand that the accredited operator pay the continuity fee by a day specified in the notice under this paragraph; and
  - (b) the accreditation of the accredited operator –
    - (i) is suspended at the end of the day specified in the notice under paragraph (a) if, at that time, the continuity fee remains unpaid; and

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Part 3 – Passenger Transport Services Act 2011 Amended

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- (ii) remains so suspended until the continuity fee is paid by the accredited operator.

**24A. Annual fees**

- (1) An accredited operator who is accredited in respect of an on-demand passenger transport service, must, by the day specified by the Commission in a notice to the accredited operator as the day by which the annual fee is to be paid, pay the annual fee, if any, prescribed by regulations, in respect of each small passenger vehicle used to provide the on-demand passenger transport service.
- (2) If an accredited operator fails to pay under subsection (1) an annual fee by the day specified in a notice to the accredited operator under that subsection as the day by which the fee is to be paid –
  - (a) the Commission, by notice, may demand that the accredited operator pay the annual fee by a day specified in the notice under this paragraph; and
  - (b) the accreditation of the accredited operator –
    - (iii) is suspended at the end of the day specified in the notice under paragraph (a)

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if, at that time, the annual fee remains unpaid; and

- (iv) remains so suspended until the annual fee is paid by the accredited operator.

- (3) Regulations that prescribe the annual fee payable may specify the manner in which the number of small passenger vehicles to which the annual fee is to relate is to be determined.

- (4) Despite subsection (1), an accredited operator who is an affiliated operator in relation to a booking service provider is not required to pay an annual fee under that subsection.

- (5) If the accreditation of a booking service provider is suspended or cancelled and the booking service provider has not paid the annual fee by the day specified in a notice under this section as the day on which the annual fee is due to be paid by the provider –

- (a) the Commission, by notice, may demand that a person who is an affiliated operator in relation to the booking service provider pay, by the day specified in the notice under this paragraph, the annual fee that would, but for

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subsection (4), be payable by the person under subsection (1) in respect of each small passenger vehicle used by the person to provide an on-demand passenger transport service; and

(b) the accreditation of the person who is an affiliated operator –

(i) is suspended at the end of the day specified in the notice under paragraph (a) if, at that time, the annual fee remains unpaid; and

(ii) the accreditation remains so suspended until the annual fee is paid by the affiliated operator.

(6) If an accredited operator who is an affiliated operator in relation to a booking service provider pays an annual fee in accordance with subsection (5) and the booking service provider pays the annual fee that the provider is required to pay under subsection (2) the Commission may refund to the affiliated operator so much of the annual fee paid by the affiliated operator as has been paid by the booking service provider.



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Part 3 – Passenger Transport Services Act 2011 Amended

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**13. Section 31 amended (Cancellation and suspension, &c., of accreditation)**

Section 31 of the Principal Act is amended as follows:

- (a) by inserting the following subparagraph after subparagraph (vi) in subsection (1)(a):
  - (via) the accredited operator, or the relevant responsible person, has failed to comply with an improvement notice issued to the accredited operator or relevant responsible person, respectively;  
or
- (b) by inserting in subsection (3) “, except where the suspension or cancellation relates to a failure to pay prescribed fees,” after “Commission is”;
- (c) by omitting from subsection (5) “continuity fees, if any” and substituting “any fees imposed under this Act”.

**14. Part 2, Division 5 inserted**

After section 33 of the Principal Act, the following Division is inserted in Part 2:

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Part 3 – Passenger Transport Services Act 2011 Amended

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***Division 5 – Booking service providers***

**33A. Duty of booking service providers in relation to ride-sourcing drivers**

- (1) A booking service provider who permits a ride-sourcing driver to operate a passenger transport service by means of ride-sourcing software must notify the Commission as soon as practicable after the booking service provider becomes aware that the person is operating a passenger transport service –
  - (a) other than by means of the ride-sourcing software, a taxi, a luxury hire vehicle or a restricted hire vehicle; and
  - (b) without being accredited to operate a passenger transport service.

Penalty: Fine not exceeding –

- (a) 50 penalty units for a body corporate or body politic; or
  - (b) 25 penalty units for an individual.
- (2) The Commission may, by notice to a booking service provider who permits a ride-sourcing driver to operate a

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passenger transport service by means of ride-sourcing software, require the booking service provider to cease to permit the ride-sourcing driver to use the ride-sourcing software to operate a passenger transport service.

- (3) The Commission may only issue a notice under subsection (2) in relation to a ride-sourcing driver if the Commission believes, on reasonable grounds, that the driver has been operating a passenger transport service –
- (a) other than by means of the ride-sourcing software, a taxi, a luxury hire vehicle or a restricted hire vehicle; and
  - (b) without being accredited to operate a passenger transport service.
- (4) A person to whom a notice is issued under subsection (2) must not fail to comply with a requirement of the notice.

Penalty: Fine not exceeding –

- (a) 100 penalty units for a body corporate or body politic; or
- (b) 50 penalty units for an individual.

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Part 3 – Passenger Transport Services Act 2011 Amended

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**33B. Notification of Commission when vehicle first used for on-demand passenger transport service**

- (1) An accredited operator who is accredited in relation to an on-demand passenger transport service must notify the Commission within 14 days after a vehicle begins to be used for the provision of the on-demand passenger transport service.

Penalty: Fine not exceeding –

- (a) 50 penalty units for a body corporate or body politic; or
- (b) 25 penalty units for an individual.
- (2) Subsection (1) does not apply in relation to an accredited operator who is accredited in relation to an on-demand passenger transport service if there is a relevant responsible person in relation to the accreditation.
- (3) A relevant responsible person in relation to the accreditation of an accredited operator who is accredited in relation to an on-demand passenger transport service must notify the Commission within 14 days after a vehicle begins to be used for the provision of the on-demand passenger transport service.

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Penalty: Fine not exceeding –

- (a) 50 penalty units for a body corporate or body politic; or
- (b) 25 penalty units for an individual.

**15. Part 2A inserted**

After section 33 of the Principal Act, the following Part is inserted:

**PART 2A – SAFETY REQUIREMENTS**

**33C. Interpretation of Part 2A**

In this Part –

*party in the chain of responsibility*,  
for an on-demand passenger transport service, means each of the following persons:

- (a) an accredited operator of the service;
- (b) a relevant responsible person for an accredited operator of the service;
- (c) an affiliated operator in relation to a booking service provider who is an

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accredited operator in  
relation to the service;

(d) a driver of a vehicle used  
for the provision of the  
service;

(e) a registered operator of a  
vehicle used in the  
provision of the service;

***safety duty*** means a duty specified in  
section 33G.

**33D. Reasonably practicable**

In this Part, reasonably practicable, in  
relation to a safety duty of a person, is a  
reference to what is, or what was at a  
particular time, reasonably able to be  
done by the person in relation to ensuring  
safety, taking into account and weighing  
up all relevant matters including –

(a) the likelihood of the hazard or the  
risk concerned occurring; and

(b) the degree of harm that might  
result from the hazard or risk; and

(c) what the person knows, or ought  
reasonably to know, about –

(i) the hazard or risk; and

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- (ii) ways of eliminating or minimising the hazard or risk; and
- (d) the availability and suitability of ways to eliminate or minimise the risk; and
- (e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk – the cost associated with the available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

**33E. Principles of shared responsibility**

- (1) The safety of the operations of an on-demand transport service is the shared responsibility of each person who is a party in the chain of responsibility in relation to the on-demand transport service.
- (2) The level and nature of a person's responsibility for an activity depends on –
  - (a) the functions the person performs or is required to perform, whether exclusively or occasionally; and

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- (b) the nature of the safety risks created by the carrying out of the activity; and
- (c) the person's capacity to control, eliminate or minimise the risks.

**33F. Principles applying to safety duties**

- (1) A safety duty of a person may not be transferred to another person.
- (2) A person may have more than one safety duty by virtue of being a person to whom more than one provision of this Part applies.
- (3) More than one person may concurrently have the same safety duty and each person must comply with the safety duty even if another person has the same safety duty.
- (4) If more than one person has a safety duty for the same matter, each person –
  - (a) retains responsibility for the person's safety duty in relation to the matter; and
  - (b) must discharge the person's safety duty to the extent to which the person –



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- (i) has the capacity to influence and control the matter; or
- (ii) would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.

**33G. Safety duties of accredited operators and relevant responsible persons**

- (1) In this section, a reference to an accredited operator does not include a reference to an affiliated operator.
- (2) It is a safety duty of an accredited operator in relation to an on-demand passenger transport service and the relevant responsible person in relation to an accredited operator of an on-demand passenger transport service –
  - (a) to ensure, so far as is reasonably practicable, the safety of the drivers of vehicles while the drivers are providing the on-demand passenger transport service; and
  - (b) to ensure, so far as is reasonably practicable, the safety of other road users while vehicles are being used for the purposes of the

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on-demand passenger transport service; and

- (c) to ensure, so far as is reasonably practicable, the safety of passengers of vehicles while the vehicles are being used to provide the on-demand passenger transport service.
- (3) Without limiting subsection (2), an accredited operator of an on-demand passenger transport service, and a relevant responsible person in relation to an accredited operator of an on-demand passenger transport service, must –
  - (a) eliminate risks to safety, so far as is reasonably practicable; and
  - (b) if it is not reasonably practicable to eliminate risks to safety, minimise those risks so far as is reasonably practicable.
- (4) It is a safety duty of a person who is an accredited operator in relation to an on-demand passenger transport service, and of the relevant responsible person in relation to an accredited operator of an on-demand passenger transport service, to ensure that the person's conduct does not directly or indirectly cause or encourage another person to fail to comply, in relation to the on-demand

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passenger transport service, with a safety duty imposed on that other person.

- (5) It is a safety duty of an accredited operator in relation to an on-demand passenger transport service and a relevant responsible person in relation to an accredited operator of an on-demand passenger transport service to ensure that –

- (a) the provisions of this Act, or of any other law, that relate to the safe use of a vehicle; and
- (b) any safety, security and related standards approved by the Commission under section 16 –

are complied with by the accredited operator or relevant responsible person, respectively, and, to ensure, to the relevant extent, that each other person involved in the provision of the on-demand passenger transport service complies with such provisions or standards.

- (6) For the purposes of subsection (5) the relevant extent to which an accredited operator or relevant responsible person is to ensure that each other person involved in the provision of the on-demand passenger transport service complies with such provisions or standards is to

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the extent that the accredited operator or relevant responsible person is able to control or influence compliance with those provisions or standards by the other person,

**33H. Safety duty of affiliated operators and relevant responsible persons**

- (1) It is a safety duty of an affiliated operator in relation to a booking service provider and a relevant responsible person in relation to an affiliated operator –
  - (a) to take reasonable care that the acts or omissions, of both the affiliated operator and the relevant responsible person, in the course of providing an on-demand passenger transport service, do not adversely affect the safety of other persons; and
  - (b) to comply, so far as the affiliated operator or relevant responsible person is reasonably able, with any reasonable instruction that is given by the booking service provider to ensure that –
    - (i) the provisions of this Act, or of any other law, that relate to the safe use of a vehicle; or

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- (ii) any safety, security and related standards approved by the Commission under section 16 –

are complied with; and

- (c) to co-operate with any reasonable policy or procedure, of the booking service provider, in connection with the safe and secure provision of the on-demand passenger service.
- (2) It is a safety duty of a person who is an affiliated operator, or a relevant responsible person in relation to an affiliated operator, to ensure that the operator or person's conduct does not directly or indirectly cause or encourage another person to fail to comply, in relation to an on-demand passenger transport service, with a safety duty imposed on that other person.

**33L. Safety duty of driver**

- (1) It is a safety duty of a driver of a vehicle used to provide an on-demand passenger transport service –
- (a) to take reasonable care for his or her own safety while providing

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the on-demand passenger transport service; and

- (b) to take reasonable care that his or her own acts or omissions, while providing the on-demand passenger transport service, do not adversely affect the safety of other persons; and
- (c) to comply, so far as the driver is reasonably able, with any reasonable instruction that is given by the accredited operator providing the on-demand passenger transport service to ensure that –
  - (i) the provisions of this Act, or of any other law, that relate to the safe use of a vehicle; or
  - (ii) any safety, security and related standards approved by the Commission under section 16 –

are complied with; and

- (d) to co-operate with any reasonable policy or procedure, of the accredited operator providing the on-demand passenger transport service, in connection with the

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safe and secure provision of the  
on-demand passenger service.

- (2) It is a safety duty of a person who is a driver of a vehicle used to provide an on-demand passenger transport service to ensure that the person's conduct does not directly or indirectly cause or encourage another person to fail to comply, in relation to the on-demand passenger transport service, with a safety duty imposed on that other person.

**33J. Safety duty of registered operator of vehicle**

- (1) It is a safety duty of a registered operator of a vehicle used in the provision of an on-demand passenger transport service –
- (a) to take reasonable care that his or her own acts or omissions in relation to the vehicle do not adversely affect the safety of other persons; and
  - (b) to comply, so far as the registered operator is reasonably able, with any reasonable instruction that is given by the accredited operator of the on-demand passenger transport service to ensure that –
    - (i) the provisions of this Act, or of any other law, that

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relate to the safe use of a vehicle; or

- (ii) any safety, security and related standards approved by the Commission under section 16 –

are complied with; and

- (c) to co-operate with any reasonable policy or procedure, of the accredited operator providing the on-demand passenger transport service, in connection with the provision of the on-demand passenger service.

- (2) It is a safety duty of each person who is a registered operator of a vehicle used to provide an on-demand passenger transport service to ensure that the person's conduct does not directly or indirectly cause or encourage another person to fail to comply, in relation to the on-demand passenger transport service, with a safety duty imposed on that other person.

**33K. Offences**

- (1) A person on whom a safety duty is imposed must not, without reasonable excuse, engage in conduct, or fail to



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engage in conduct, in relation to the operation of on-demand passenger transport services, if –

- (a) the conduct, or failure to engage in the conduct, exposes a person to a risk of death, serious injury or serious illness; and
- (b) the person is reckless as to the risk the conduct, or failure to engage in the conduct, poses of the death, serious injury or serious illness of a person.

Penalty: Fine not exceeding –

- (a) \$3 000 000 for a body corporate or body politic; or
  - (b) \$300 000 for an individual or a term of imprisonment not exceeding 5 years, or both.
- (2) A person on whom a safety duty is imposed must not, by failing to comply with the duty, expose a person to a risk of death, serious injury or serious illness.

Penalty: Fine not exceeding –

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- (a) \$1 500 000 for a body corporate or body politic; or
  - (b) \$150 000 for an individual.
- (3) A person on whom a safety duty is imposed must not fail to comply with the duty.

Penalty: Fine not exceeding –

- (a) \$500 000 for a body corporate or body politic; or
  - (b) \$50 000 for an individual.

**33L. Relationship with certain safety legislation**

- (1) If a provision of this Act and a provision of the *Work Health and Safety Act 2012* deal with the same matter and it is possible to comply with both provisions, a person must comply with both provisions.
- (2) However, to the extent it is not possible to comply with both provisions, a person must comply with the provision of the *Work Health and Safety Act 2012*.
- (3) Evidence of a relevant contravention of this Act is admissible in any proceeding

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for an offence under the *Work Health and Safety Act 2012*.

- (4) If an act, omission or circumstance constitutes an offence under this Act and the *Work Health and Safety Act 2012*, the offender is not liable to be punished twice for the same offence.
- (5) Compliance with this Act or the regulations, or any requirement imposed under this Act or the regulations is not, in itself, evidence that a person has complied with the *Work Health and Safety Act 2012* or with a common law duty of care.

**33M. Duty to advise Commission of accidents, incidents and notifiable findings**

- (1) An accredited operator must notify the Commission of –
  - (a) an accident or incident, of a type of accident or incident that is prescribed, in relation to the passenger transport service operated by the accredited operator; and
  - (b) any steps taken to prevent the recurrence of such an accident or incident.

Penalty: Fine not exceeding –

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- (a) 50 penalty units for a body corporate or body politic; or
  - (b) 25 penalty units for an individual.
- (2) An accredited operator must notify the Commission of –
  - (a) a finding, made by a person or body, that –
    - (i) relates to an accident or incident in relation to the passenger transport service that is operated by the accredited operator; and
    - (ii) is of a kind of finding that is prescribed; and
  - (b) if the finding relates to a failure to comply with –
    - (i) a provision of this Act, the regulations, or another Act, that relates to the safe use of motor vehicles; or
    - (ii) a provision of any safety, security and related standards approved by the

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Commission under  
section 16 –

the steps taken to prevent a  
recurrence of the failure to  
comply with the provision.

Penalty: Fine not exceeding –

- (a) 50 penalty units for a  
body corporate or body  
politic; or
- (b) 25 penalty units for an  
individual.

**16. Section 60AA inserted**

Before section 60 of the Principal Act, the  
following section is inserted in Part 5:

**60AA. Administration fund**

- (1) A fund is to be established consisting of  
the annual fees payable under this Act.
- (2) The fund is to be applied for the general  
administration of this Act.
- (3) The fund is to be established as an  
account in the Public Account.

**17. Section 60A inserted**

After section 60 of the Principal Act, the  
following section is inserted in Part 5:

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**60A. Requirements in relation to affiliated operators**

- (1) A person must, within 14 days after ceasing to be an affiliated operator, notify the Commission.

Penalty: Fine not exceeding –

- (a) 50 penalty units for a body corporate or body politic; or
  - (b) 25 penalty units for an individual.
- (2) The Commission, by notice to an affiliated operator or a booking service provider in relation to which there is an affiliated operator, may require the affiliated operator or booking service provider to keep records of the kind, and in the manner, that is specified in the notice.
- (3) An affiliated operator or booking service provider to which a notice is given under subsection (2) must comply with the requirements specified in the notice.

Penalty: Fine not exceeding –

- (a) 50 penalty units for a body corporate or body politic; or

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(b) 25 penalty units for an individual.

(4) The Commission may –

(a) provide to a person who is an affiliated operator in relation to a booking service provider –

(i) any information provided to the Commission, in accordance with a requirement specified in a notice given under subsection (2), by the booking service provider; or

(ii) any other information available to the Commission in relation to the booking service provider; or

(b) provide to a booking service provider –

(i) any information provided to the Commission, in accordance with a requirement specified in a notice given under subsection (2), by an affiliated operator in relation to the booking service provider; or

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- (ii) any other information available to the Commission in relation to an affiliated operator in relation to the booking provider.

**18. Sections 61A, 61B, 61C, 61D and 61E inserted**

After section 61 of the Principal Act, the following sections are inserted in Part 5:

**61A. Improvement notices**

- (1) If the Commission is of the opinion that a person has contravened, is contravening, or is likely to contravene, a provision of this Act or the regulations, the Commission may –
  - (a) if the person is not an accredited operator – serve on the person an improvement notice in relation to the person; or
  - (b) if the person is an accredited operator and there is not a relevant responsible person in relation to the accredited operator – serve on the accredited operator an improvement notice in relation to the person; or
  - (c) if the person is an accredited operator and there is a relevant



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responsible person in relation to the accredited operator – serve on the relevant responsible person an improvement notice in relation to the person who is an accredited operator.

- (2) An improvement notice in relation to a person must specify –
- (a) that the Commission is of the opinion that the person has contravened, is contravening, or is likely to contravene, a provision of this Act or the regulations; and
  - (b) the contravention, or likely contravention, to which the notice relates and the provision to which the contravention, or likely contravention, relates; and
  - (c) that the person on whom the improvement notice is served is required to remedy, before a date specified in the notice, the contravention or likely contravention, or the matters or activities occasioning the contravention or likely contravention; and

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- (d) the reason why the Commission is of the opinion referred to in paragraph (a); and
  - (e) information about the right of the person on whom it is served to have the decision to serve the notice reviewed; and
  - (f) that the notice is issued under this section.
- (3) An improvement notice may, but is not required to, specify the method by which the alleged contravention or likely contravention, or the matters or activities occasioning the alleged contravention or likely contravention, are to be remedied.
- (4) The date specified, in accordance with subsection (2)(c), in an improvement notice, is to be a date that the Commission considers is reasonable having regard to the severity of any relevant risks and the nature of the contravention or likely contravention.
- (5) A person on whom an improvement notice is served under this section must comply with the notice.

Penalty: Fine not exceeding –

- (a) 100 penalty units for a body corporate or body politic; or

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- (b) 50 penalty units for an individual.
- (6) It is a defence to a charge of an offence against subsection (5) committed in relation to an improvement notice if the person charged establishes –
- (a) that he or she had a reasonable excuse for failing to comply with the improvement notice; or
  - (b) the alleged contravention or likely contravention, or the matters or activities occasioning the alleged contravention or likely contravention, that were specified in the notice were remedied within the period specified in the notice, but by a different method to the method specified in the notice.
- (7) The Commission may, by notice served on a person, amend or cancel an improvement notice served on a person by the Commission.
- (8) An amendment of an improvement notice –
- (a) must not amend the improvement notice by referring to a contravention of a different provision to that already specified in the improvement notice; and

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- (b) must state the reason why the amendment is being made; and
- (c) must include information about the right of the person on whom it is served to have the decision to serve the amendment reviewed.

**61B. Infringement notices**

- (1) In this section –

***infringement offence*** means an offence against this Act or the regulations that is prescribed by the regulations to be an infringement offence.

- (2) The Commission or an authorised officer may issue and serve an infringement notice on a person if the Commission, or an authorised officer, respectively, reasonably believes that the person has committed an infringement offence.
- (3) An infringement notice may not be served on an individual who has not attained the age of 16 years.
- (4) An infringement notice –
  - (a) is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*; and

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- (b) is not to relate to more than 4 offences.
- (5) The regulations –
  - (a) may prescribe the penalty applicable to each infringement offence that is payable under an infringement notice; and
  - (b) may prescribed different penalties for bodies corporate and individuals.

**61C. Formal warnings**

- (1) The Commission may, instead of taking proceedings against a person for a contravention of a provision of this Act, give a formal warning to the person if the Commission believes –
  - (a) the person had taken reasonable steps to prevent the contravention and was unaware of the contravention; and
  - (b) it is appropriate for the contravention to be dealt with by way of a formal warning under this section.
- (2) A formal warning must be in writing.
- (3) A formal warning given to a person may be withdrawn by the Commission by

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serving on the person a notice of withdrawal within 21 days after the formal warning was given to the person.

- (4) If a formal warning in relation to a contravention has been given to a person, proceedings may not be taken by the Commission in relation to the contravention to which the warning relates unless and until the formal warning has been withdrawn.

- (5) In this section –

*proceedings* includes action by way of an infringement notice.

**61D. Powers of police officers and authorised officers**

- (1) A police officer or an authorised officer may require a driver of a vehicle, which the police officer or authorised officer believes to be used to provide a passenger transport service, to do any one or more of the following:

- (a) stop the vehicle;
- (b) park the vehicle;
- (c) permit the officer to inspect the vehicle;
- (d) provide proof that the person holds a driver licence, or any

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other document, authorising the person to perform the service of the kind of service that the person is performing;

- (e) operate in accordance with the instructions of the officer, or permit the officer to operate, any mobile phone, or electronic equipment, that is in the vehicle or in the possession of the person;
  - (f) answer questions related to compliance with this Act.
- (2) A person to whom a requirement is given under subsection (1) must not fail to comply with the requirement.

Penalty: Fine not exceeding 25 penalty units.

- (3) A police officer, an authorised officer, the Commission or a person authorised under subsection (7) may enter and remain on premises –
- (a) to inspect any vehicles at the premises; and
  - (b) to inspect any documents issued by the Commission under this Act or any documents required to be kept at the premises for the purposes of this Act or that may

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be relevant to the enforcement of this Act; and

(c) to inspect any mobile phone or electronic device kept at the premises that the police officer, authorised officer, the Commission or the person authorised under subsection (7) believes to contain records relevant to the enforcement of this Act; or

(d) to inspect a business, related to the provision of passenger transport services, conducted at the premises.

(4) In the course of carrying out an inspection under subsection (3), the police officer, authorised officer, Commission or person authorised under subsection (7) may –

(a) direct a person to answer reasonable questions relating to the inspection; and

(b) make copies of, or take extracts from, records or documents referred to in subsection (3)(b) or any information contained on a mobile phone or electronic device referred to in subsection (3)(c).



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- (5) A person must not, without reasonable excuse, fail to comply with a direction under subsection (4) of a police officer, an authorised officer, the Commission or a person authorised under subsection (7).

Penalty: In the case of –

- (a) a first offence – a fine not exceeding 25 penalty units; and
  - (b) a second or subsequent offence – a fine not exceeding 50 penalty units.
- (6) A power of entry conferred by this section may only be exercised at a reasonable time and, if the premises are residential premises, if –
- (a) the occupier consents; or
  - (b) the entry is authorised by a warrant under the *Search Warrants Act 1997*.
- (7) The Commission may, by instrument in writing, authorise a person specified in the instrument, or members of a class of persons specified in the instrument, to enter all premises for the purposes of this section.

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**61E. Hindering**

A person must not hinder or obstruct a police officer, an authorised officer, the Commission or a person authorised under section 61D(7), who is performing or exercising a function or power under this Act.

Penalty: Fine not exceeding –

- (a) 100 penalty units for a body corporate or body politic; or
- (b) 50 penalty units for an individual.

**19. Section 63A inserted**

After section 63 of the Principal Act, the following section is inserted in Part 5:

**63A. Provision or omission of information with intention to mislead**

- (1) A person (the *information provider*) must not provide to a person under this Act information –
  - (a) that is prepared by another person; and
  - (b) that the information provider knows to contain statements that are false or misleading.

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Penalty: Fine in the case of –

(a) a body corporate or body politic –

(i) for a first offence – a fine not exceeding 200 penalty units; or

(ii) for a second offence – a fine not exceeding 400 penalty units;

(b) an individual –

(i) for a first offence – a fine not exceeding 40 penalty units or a term of imprisonment not exceeding 6 months, or both; or

(ii) for a second offence – a fine not exceeding 80 penalty units or imprisonment for a term not exceeding 12 months, or both.

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- (2) A person must not provide to a person under this Act information if the person providing the information knows that, if other information is not also provided with the information, the information is likely to mislead the person to whom the information is provided.

Penalty: Fine in the case of –

- (a) a body corporate or body politic –

- (i) for a first offence – a fine not exceeding 200 penalty units; or

- (ii) for a second offence – a fine not exceeding 400 penalty units;

- (b) an individual –

- (i) for a first offence – a fine not exceeding 40 penalty units or a term of imprisonment not exceeding 6 months, or both; or

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- (ii) for a second offence – a fine not exceeding 80 penalty units or imprisonment for a term not exceeding 12 months, or both.

**20. Section 71 inserted**

After section 70 of the Principal Act, the following section is inserted in Part 5:

**71. Transitional provision**

The transitional provisions in Schedule 2 have effect.

**21. Schedule 2 inserted**

After Schedule 1 to the Principal Act, the following Schedule is inserted:

**SCHEDULE 2 – TRANSITIONAL PROVISION**

Section 71

**1. Interpretation**

In this Schedule –

*amendment Act* means the *On-Demand Passenger Transport*

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*Services Industry (Miscellaneous  
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***amendment commencement day***  
means the day on which  
section 71 commences.

**2. Existing booking service providers**

- (1) Until the end of the 6-month period after the amendment commencement day, section 10 does not apply in relation to a person who, immediately before that day, was operating a booking service.
- (2) After the expiry of the 6-month period after the amendment commencement day, section 10 does not apply in relation to a person if –
  - (a) the person has applied for accreditation as a booking service provider; and
  - (b) the person's application for accreditation as a booking service provider has not been refused.

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**PART 4 – TAXI AND HIRE VEHICLE INDUSTRIES  
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**22. Principal Act**

In this Part, the *Taxi and Hire Vehicle Industries Act 2008*\* is referred to as the Principal Act.

**23. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of *authorised officer* and substituting the following definition:

***authorised officer*** means a person authorised by the Commission, under section 9(2) of the *Traffic Act 1925*, in relation to a power or act under that Act or the *Vehicle and Traffic Act 1999*;

- (b) by inserting the following definition after the definition of *inspection report*:

***investigation*** means an investigation conducted for the purposes of section 66E;

- (c) by inserting the following definition after the definition of *regulations*:

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***Regulator*** means the Tasmanian Economic Regulator appointed under section 9 of the *Economic Regulator Act 2009*;

- (d) by omitting the definition of *reserve price* and substituting the following definition:

***reserve price***, for a licence for a year, means the reserve price, for the year, for an owner-operator taxi licence for the taxi area to which that licence relates, as specified in section 66C(1);

- (e) by omitting the definition of *taxi area* and substituting the following definition:

***taxi area*** means an area, in which, to which and from which a taxi service may operate, that is shown as a taxi area on the electronic map generated under section 90A;

- (f) by omitting the definition of *taxi dispatch service*.

**24. Section 8 repealed**

Section 8 of the Principal Act is repealed.



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**25. Sections 13 and 14 repealed**

Sections 13 and 14 of the Principal Act are repealed.

**26. Section 15 amended (Transfer of ownership of perpetual taxi licence)**

Section 15 of the Principal Act is amended by omitting subsection (2).

**27. Section 18 amended (New owner-operator taxi licence to be made available in place of surrendered perpetual taxi licence)**

Section 18(3) of the Principal Act is amended by inserting “for the year in which the tender is accepted” after “that licence”.

**28. Section 20 amended (New owner-operator taxi licence to be made available in place of inactive perpetual taxi licence)**

Section 20(4) of the Principal Act is amended by inserting “for the year in which the tender is accepted” after “that licence”.

**29. Section 23 amended (Number of owner-operator taxi licences to be made available)**

Section 23 of the Principal Act is amended as follows:

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- (a) by omitting subsections (1A), (1B) and (1C) and substituting the following subsections:

(1A) Subsection (1) does not apply, and subsections (1B) and (1C) only apply, in relation to a taxi area in respect of the years 2020 to 2024 (inclusive).

(1B) If the Commission is, having regard to –

- (a) guidelines, if any, issued under subsection (1C); and

- (b) other matters that it considers to be relevant –

satisfied that there are insufficient taxis available to adequately meet the needs of consumers in a taxi area, the Commission may make available for issue in relation to the taxi area the number of owner-operator taxi licences that the Commission thinks are necessary to meet those needs.

(1C) The Commission may issue guidelines in respect of the matters that the Commission is to take into account in determining whether there are sufficient taxis

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available to adequately meet the  
needs of consumers in a taxi area.

- (b) by omitting from subsection (3) “taxi area” second occurring and substituting “for that licence for the year in which the tender is accepted”;
- (c) by omitting from subsection (4)(a) “this section” and substituting “subsection (1)”;
- (d) by inserting in subsection (4)(a) “for the year in which the tender is accepted” after “licence”;
- (e) by omitting from subsection (5) “this section” and substituting “subsection (1)”;
- (f) by inserting in subsection (5) “for that licence for the year in which the tender is sold” after “price”;
- (g) by omitting paragraph (b) from subsection (6) and substituting the following paragraph:
  - (b) subsection (1A) does not apply in relation to the taxi area for the following year; and
- (h) by omitting paragraph (b) from subsection (7) and substituting the following paragraph:

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- (b) subsection (1A) does not apply in relation to the taxi area for the following year; and

**30. Section 24 amended (Application for owner-operator taxi licence)**

Section 24(3) of the Principal Act is amended by inserting “sole” after “be the”.

**31. Sections 29 and 30 repealed**

Sections 29 and 30 of the Principal Act are repealed.

**32. Section 31 amended (Transfer of owner-operator taxi licence to another person)**

Section 31 of the Principal Act is amended as follows:

- (a) by inserting in subsection (3) “sole” after “be the”;
- (b) by omitting subsection (4) and substituting the following subsection:
  - (4) The Commission may refuse the transfer of an owner-operator taxi licence if –
    - (a) the licence is suspended under section 35; or

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- (b) the licence is subject to a notice of intention to suspend or cancel under section 36; or
- (c) a notice has been given, under section 31(2) of the *Passenger Transport Services Act 2011*, to the person to whom the licence has been issued, of an intention to suspend or cancel the accreditation of the person and the Commission has not made a determination under section 31 of that Act to suspend or cancel, or not to suspend or cancel, the accreditation of the person.

**33. Section 35 substituted**

Section 35 of the Principal Act is repealed and the following section is substituted:

**35. Cancellation or suspension of licence where accreditation cancelled or suspended**

(1) If –

- (a) the Commission suspends for a period under the *Passenger Transport Services Act 2011* the

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accreditation of the holder of an owner-operator taxi licence, the licence is also suspended for the same period; or

- (b) the Commission cancels under the *Passenger Transport Services Act 2011* the accreditation of the holder of an owner-operator taxi licence, the licence is also cancelled.
- (2) An owner-operator taxi licence is of no effect during any period of its suspension.
- (3) The holder of an owner-operator taxi licence that has been suspended under subsection (1) must not, during the period of that suspension, operate a taxi service under the purported authority of that licence or cause or permit another person to operate a taxi service under the purported authority of that licence.

Penalty: Fine not exceeding 100 penalty units.

**34. Section 37 amended (New owner-operator taxi licence to be made available in place of surrendered or cancelled owner-operator taxi licence)**

Section 37(3) of the Principal Act is amended by inserting “for the year in which the tender is accepted” after “that licence”.

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**35. Section 41 amended (Application for wheelchair-accessible taxi licence)**

Section 41 of the Principal Act is amended as follows:

- (a) by omitting paragraph (b) from subsection (3);
- (b) by inserting in subsection (4) “sole” after “be the”.

**36. Sections 47 and 48 repealed**

Sections 47 and 48 of the Principal Act are repealed.

**37. Section 49 amended (Transfer of wheelchair-accessible taxi licence to another person)**

Section 49 of the Principal Act is amended as follows:

- (a) by inserting in subsection (3)(a) “sole” after “be the”;
- (b) by omitting subsection (4) and substituting the following subsection:
  - (4) The Commission may refuse the transfer of a wheelchair accessible taxi licence if –
    - (a) the licence is suspended under section 54; or

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- (b) the licence is subject to a notice of intention to suspend or cancel under section 55; or
- (c) a notice has been given, under section 31(2) of the *Passenger Transport Services Act 2011*, to the person to whom the licence has been issued, of an intention to suspend or cancel the accreditation of the person and the Commission has not made a determination under section 31 of that Act to suspend or cancel, or not to suspend or cancel, the accreditation of the person.

**38. Section 50 amended (Transfer of wheelchair-accessible taxi licence to another vehicle)**

Section 50 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

- (3) The Commission may refuse the transfer if –
  - (a) the licence is suspended under section 54; or



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- (b) the licence is subject to a notice of intention to suspend or cancel under section 55; or
- (c) a notice has been given, under section 31(2) of the *Passenger Transport Services Act 2011*, to the person to whom the licence has been issued, of an intention to suspend or cancel the accreditation of the person and the Commission has not made a determination under section 31 of that Act to suspend or cancel, or not to suspend or cancel, the accreditation of the person.

**39. Section 54 substituted**

Section 54 of the Principal Act is repealed and the following section is substituted:

**54. Cancellation or suspension of licence where accreditation suspended or cancelled**

(1) If –

- (a) the Commission suspends for a period under the *Passenger Transport Services Act 2011* the accreditation of the holder of a wheelchair-accessible taxi licence, the licence is also suspended for the same period; or

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- (b) the Commission cancels under the *Passenger Transport Services Act 2011* the accreditation of the holder of a wheelchair-accessible taxi licence, the licence is also cancelled.
- (2) A wheelchair-accessible taxi licence is of no effect during any period of its suspension.
- (3) The holder of a wheelchair-accessible taxi licence that has been suspended under subsection (1) must not, during the period of that suspension, operate a taxi service under the purported authority of that licence or cause or permit another person to operate a taxi service under the purported authority of that licence.

Penalty: Fine not exceeding 100 penalty units.

**40. Sections 66A and 66B inserted**

After section 66 of the Principal Act, the following sections are inserted in Division 5:

**66A. Setting of taxi fares**

- (1) The Commission may make an order (a *taxi fare order*) setting out –
  - (a) the maximum fare, or a method for calculating the maximum fare,

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- that may be charged for the provision of a taxi service to a person; and
- (b) the amount of any tariff that may be charged for the provision of a taxi service to a person; and
  - (c) any other amounts that may be charged in relation to the provision of a taxi service to a person.
- (2) The Commission is, in making a taxi fare order, to have regard to the recommendations of the Regulator that are set out in the most recent report on the results of a taxi fare methodology inquiry conducted under the *Economic Regulator Act 2009* before the taxi fare order is made.
- (3) A taxi fare order may include a method for calculating annual increases in the amounts of maximum fares, tariffs, or other amounts, specified in the order.
- (4) A taxi fare order may specify different maximum fares, different methods for calculating a maximum fare, and different amounts that may be charged in relation to the provision of a taxi service to a person, in different circumstances.

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**66B. Multiple hirers**

- (1) For the purposes of this section, 2 or more persons are hiring a vehicle under separate hiring arrangements if the persons are not relatives, friends, or associates, hiring the vehicle as companions.
- (2) A person operating a taxi service by means of a vehicle may provide the taxi service, under 2 or more separate hiring arrangements, to 2 or more persons, (*the hirers*) who are each proposing to travel in the vehicle to different destinations, if –
  - (a) all the hirers under each separate hiring arrangement agree to the provision of the taxi service to all the hirers under another separate hiring arrangement; and
  - (b) the hirers are travelling to –
    - (i) destinations in the same locality; or
    - (ii) destinations that are located in the same general direction from the point from which the taxi service is to be provided to the hirers; and

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- (c) each hirer is not required to pay more than 75% of the fare indicated on the taxi meter when the hirer reaches the point at which the hirer is to cease to use the taxi service; and
  - (d) each of the hirers is advised, before the taxi service begins to be provided, of the amount of the fare that the hirer will be required to pay under paragraph (c); and
  - (e) the taxi service is not being provided in accordance with a timetable for the provision of the service.
- (3) A person operating a taxi service by means of a vehicle must not provide the service to 2 or more persons under separate hiring arrangements, except if the person operating the service provides the service in accordance with the requirements of subsection (2).

Penalty: Fine not exceeding 20 penalty units.

**41. Part 3, Division 6 inserted**

After section 66 of the Principal Act, the following Division is inserted in Part 3:

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***Division 6 – Reserve price determinations***

**66C. Reserve price determinations**

- (1) For the purposes of this Act, the reserve price, for an owner-operator taxi licence for the taxi area to which that licence relates, is –
  - (a) for so much of the year in which this section commences as occurs before the first determination is made under this section – the reserve price, set out in Schedule 3 of this Act as in force before 1 January 2020, in relation to the taxi area; and
  - (b) for so much of the year in which this section commences as occurs after the first determination is made under this section – the reserve price, in relation to the taxi area, that is specified, in accordance with section 66D(2), in a determination under subsection (2); and
  - (c) for any other year – the reserve price specified for that year in a determination under subsection (2).
- (2) The Regulator –

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- (a) must make a reserve price determination if required to do so under section 66D; and
    - (b) must make a reserve price determination if required to do so under subsection (7) and if subsection (10)(b) does not apply; and
    - (c) must make a reserve price determination if the Regulator issues a notice under subsection (8).
  - (3) A reserve price determination must –
    - (a) determine, for each taxi area for a calendar year to which the determination relates, a reserve price for owner-operator taxi licences in relation to the taxi area; and
    - (b) include a statement of the reasons for the reserve prices.
  - (4) The object of a reserve price determination is to –
    - (a) assist in the development of efficient pricing and competition for taxi licences; and
    - (b) promote a safe taxi transport system that responds adequately

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to consumer demand for taxi services.

- (5) A reserve price determination may –
- (a) specify a different reserve price for each taxi area to which the determination relates; and
  - (b) specify a different reserve price, for each taxi area to which the determination relates, for each calendar year to which the determination relates.
- (6) Except for the first reserve price determination under subsection (2)(a) or a reserve price determination made in accordance with subsection (2)(c), a reserve price determination is to relate to the 4 calendar years beginning after the determination is made.
- (7) Subject to subsection (10)(b), the Regulator must, before 1 December in the last year to which a reserve price specified in the most recent reserve price determination relates, make under subsection (2)(b) a reserve price determination that is to relate to each of the next following 4 calendar years.
- (8) The Regulator may give a notice to the Minister and the Treasurer, jointly, stating that the Regulator is of the



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opinion that a reserve price determination is required to be made.

(9) If the Regulator gives a notice under subsection (8) –

- (a) the reserve price determination made in accordance with subsection (2)(c) is to relate to the calendar years, not being more than 4 calendar years, specified in the determination; and
- (b) a reserve price determination that is made before the notice is given ceases to apply in relation to a calendar year to which the reserve price determination made in accordance with subsection (2)(c) relates.

(10) The Regulator is not required to –

- (a) include in a reserve price determination a reserve price for owner-operator taxi licences in relation to a taxi area if a previous reserve price determination in relation to the taxi area specifies that the reserve price for owner-operator taxi licences in relation to the taxi area is zero; or
- (b) make a reserve price determination if a previous

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reserve price determination specifies that the reserve price for owner-operator taxi licences in relation to all taxi areas is zero.

- (11) The Regulator must publish notice of the making of a reserve price determination –
- (a) in the *Gazette*; and
  - (b) on the Regulator's internet website.
- (12) The notice under subsection (11) must include a brief description of the nature and effect of the reserve price determination.

**66D. First determination of reserve price**

- (1) The Regulator must, before the first 1 December after this section commences, make under section 66C(2) a reserve price determination that applies to –
- (a) so much of the calendar year in which the determination is made as occurs after the determination is made; and
  - (b) the next 4 calendar years.
- (2) The reserve price, for a taxi area, specified in a reserve price determination

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made in accordance with subsection (1) that is the reserve price that applies, for so much of the year in which the determination is made as occurs after the determination is made, must not be less than 90% of the reserve price, set out in Schedule 3 of this Act as in force before 1 January 2020, in relation to the taxi area.

- (3) The reserve price, for a taxi area for each of the 4 years, after the first year after this section commences, that is the reserve price specified in a reserve price determination made in accordance with subsection (1), must not be less than 90% of the reserve price, in relation to the taxi area, for the previous year, as set out in a determination made in accordance with subsection (1).

**66E. Investigation into reserve prices**

- (1) The Regulator must, before making a reserve price determination, conduct an investigation, in accordance with the terms of reference, as to the reserve price for owner-operator taxi licences in relation to a taxi area.
- (2) For the purposes of this Part, the terms of reference are –
- (a) if the investigation is the first investigation after this section

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commences, the matters specified in section 66D(2) and (3); or

(b) in any other case, the terms of reference given to the Regulator under subsection (3).

(3) The Minister and the Treasurer, jointly, must –

(a) at least 11 months before there ceases to be a reserve price determination in relation to a calendar year; and

(b) if a notice is issued under section 66C(8), as soon as practicable after receiving the notice –

give to the Regulator the terms of reference in relation to the investigation to be conducted for the purposes of the next reserve price determination under section 66C(2).

(4) The terms of reference under subsection (3) may –

(a) specify the matters, not referred to in section 66F, that the Regulator is to take into account when conducting an investigation; and

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- (b) specify which of the matters, specified in accordance with paragraph (a), or specified in section 66F, are to be considered by the Regulator to be more important than other matters so specified.
  - (5) The Regulator –
    - (a) is to give notice of the investigation to each person who holds a taxi licence in relation to the taxi area to which the investigation relates; and
    - (b) must give notice of the investigation –
      - (i) in a daily newspaper published and circulating generally in Tasmania; or
      - (ii) in another manner the Regulator thinks fit.
  - (6) A notice under subsection (5) of an investigation is to specify –
    - (a) that the purpose of the investigation is to determine, in relation to the taxi areas to which the next price reserve determination relates, the reserve price for owner-operator taxi licences in relation to the taxi

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- areas to be specified in the determination; and
  - (b) the period in which the investigation is to be held; and
  - (c) the period within which, and the form in which, submissions may be made to the Regulator; and
  - (d) the matters the Regulator would like submissions to address.
- (7) The Regulator is to conduct an investigation in the manner the Regulator considers appropriate and, in particular, may at his or her discretion, do any one or more of the following:
- (a) receive written and oral submissions;
  - (b) consult with any person;
  - (c) hold hearings and seminars;
  - (d) conduct workshops;
  - (e) determine whether any person wishing to appear before the Regulator may be represented by another person;
  - (f) issue a draft reserve price declaration and invite submissions in relation to the draft reserve price declaration.

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- (8) In conducting an investigation, the Regulator is not bound by rules of evidence but may inform himself or herself of any matter in the manner the Regulator considers appropriate.
- (9) The costs incurred by the Regulator in conducting an investigation for the purposes of a reserve price determination are to be paid by the Commission.

**66F. Matters to be considered in investigation**

In an investigation for the purposes of a reserve price determination, the Regulator is to consider the following matters:

- (a) the impact that a reserve price specified in the reserve price determination would have on existing holders of taxi licences;
- (b) market trends in relation to the amounts paid for the transfer of taxi licences;
- (c) the number of licences that have been transferred, in the period that the Regulator thinks fit, before the investigation commences;
- (d) any other matter the Regulator considers relevant.

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**66G. Hearings in relation to investigations**

- (1) Before holding a hearing for the purpose of an investigation, the Regulator is to give reasonable notice of the hearing in at least 2 daily newspaper published and circulating generally in Tasmania that the Regulator considers appropriate.
- (2) The notice of a hearing is to specify –
  - (a) the purpose of the hearing; and
  - (b) the time and place at which the hearing is to be held.
- (3) A hearing is to be held in public.
- (4) Despite subsection (3), if the Regulator is satisfied that it would be in the public interest to do so or that the evidence to be presented is, or is likely to be, of a confidential or commercially sensitive matter, the Regulator is to –
  - (a) direct that a hearing or part of a hearing is to take place in private and give directions as to the persons who may be present; and
  - (b) give directions prohibiting or restricting the publication of evidence given, or documents produced, at the hearing.



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(5) The *Freedom of Information Act 1991* and the *Right to Information Act 2009* do not apply in respect of –

- (a) evidence and documents in respect of which a direction under subsection (4) has been given; and
- (b) records of the giving or production of such evidence and documents.

**66H. Requiring person to give evidence or provide documents**

- (1) For the purposes of an investigation, the Regulator may require a person, by written notice to the person, to do any one or more of the following:
  - (a) attend before the Regulator and answer questions which, in the opinion of the Regulator, are relevant to the investigation;
  - (b) provide to the Regulator, in the manner specified in the notice, any document specified in the notice which is in the person's possession or control and which, in the opinion of the Regulator, is relevant to the investigation;

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- (c) provide to the Regulator, in the manner specified in the notice, any other information specified in the notice which, in the opinion of the Regulator, is relevant to the investigation.
- (2) A person who attends before the Regulator under a requirement referred to in subsection (1)(a) may, at the Regulator's discretion, be paid by the Regulator –
  - (a) the prescribed allowances and expenses; or
  - (b) if the regulations do not prescribe any allowances or expenses, the allowances and the expenses that the Minister determines by notice published in the *Gazette*.
- (3) For the purposes of an investigation, the Regulator may require the Commission to provide to the Regulator information provided to the Commission under section 97.
- (4) Despite subsection (1), the Regulator must not require a person –
  - (a) to answer a question, or provide information, if to do so would require the person to divulge information contained in or relating to a Cabinet record; or

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(b) to provide to the Regulator a Cabinet record.

(5) A notice under subsection (2)(b) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

**66I. Use of documents or other information**

(1) The Regulator –

(a) may examine, taken possession of, or make copies of and take extracts from –

(i) any document provided under a requirement referred to in section 66H(1)(b) or (c); or

(ii) any document containing information provided to the Regulator in accordance with a requirement under section 66H(3); or

(iii) any written submission made by a person in relation to the investigation; and

(b) may –

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- (i) if the document is provided under a requirement referred to in section 66H(1)(b) or (c) or under section 66H(3), retain that document for so long as is necessary for the purposes of the investigation; or
  - (ii) if the document is a written submission made by a person in relation to the investigation, retain the document; and
- (c) is to allow a person who would be entitled to inspect the document if it were not in the possession of the Regulator to inspect it, make a copy of it or taken an extract from it at any reasonable time.
- (2) The Regulator may give directions prohibiting or restricting the publication of –
  - (a) any answer, document or other information provided to the Regulator under a requirement referred to in section 66H(1)(b) or (c) or under section 66H(3) or provided as a written submission in relation to an investigation; or

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- (b) a part of any such answer, document or other information; or
    - (c) a copy of, or extract from, any such answer, document other information or part.
  - (3) The Regulator may make available to any person as the Regulator considers appropriate –
    - (a) any answer, document or other information provided to the Regulator under a requirement referred to in section 66H(1)(b) or (c) or section 66H(3) or provided as a written submission in relation to an investigation; or
    - (b) a part of any such answer, document or other information.
  - (4) Subsection (3) does not apply in relation to an answer, document or other information, or a part of any such answer, document or other information, if –
    - (a) a direction in respect of the answer, document, other information or part has been given under subsection (2) and its provision to that person would contravene the direction; or

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- (b) the answer, document, other information or part contains information which is exempt information under the *Freedom of Information Act 1991* or the *Right to Information Act 2009*; or
- (c) the Commission consider the information to be commercially sensitive information or the information is provided in accordance with a requirement under section 66H(3).

**66J. Offences**

(1) A person must not –

- (a) fail to comply with a requirement imposed on the person under section 66H(1) or contravene a direction under section 66G(4) or section 66I(2); or
- (b) provide to the Regulator, in relation to an investigation, oral or written information that the person knows or believes to be false or misleading in a material particular without informing the Regulator of that knowledge or belief; or
- (c) hinder, obstruct or interfere with the Regulator, or a person acting

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as or on behalf of the Regulator,  
in the performance or exercise of  
the Regulator or person's powers  
or functions under this Division;  
or

- (d) take, or threaten to take, any  
action that detrimentally affects  
the employment or engagement  
of another person because the  
other person has assisted, is  
assisting or intends to assist the  
Regulator in an investigation.

Penalty: Fine not exceeding 500 penalty  
units or a term of imprisonment  
not exceeding 6 months, or both.

- (2) Despite subsection (1), a person is not  
required to comply with a requirement  
imposed on the person under  
section 66H(1) if to do so would tend to  
incriminate the person.

**66K. Independence of Regulator**

In performing functions and exercising  
powers under this Act, the Regulator is  
not subject to the direction of the  
Minister.

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**42. Section 69 amended (Application for luxury hire car licence)**

Section 69 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “licence fee of \$5 000.” and substituting “relevant fee, if any.”;
- (b) by inserting the following subsection after subsection (1):

(1AA) The relevant fee is –

- (a) for applications made, after this subsection commences, in the 2020 calendar year – \$4 000; or
  - (b) for applications made in the 2021 calendar year – \$3 000; or
  - (c) for applications made in the 2022 calendar year – \$2 000; or
  - (d) for applications made in the 2023 calendar year – \$1 000.
- (c) by inserting in subsection (3) “sole” after “be the”.



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**43. Sections 75 and 76 repealed**

Sections 75 and 76 of the Principal Act are repealed.

**44. Section 77 amended (Transfer of luxury hire car licence to another person)**

Section 77 of the Principal Act is amended as follows:

- (a) by inserting in subsection (3)(a) “sole” after “be the”;
- (b) by omitting subsection (4) and substituting the following subsection:
  - (4) The Commission may refuse the transfer of a luxury hire car licence if –
    - (a) the licence is suspended under section 81; or
    - (b) the licence is subject to a notice of intention to suspend or cancel under section 82; or
    - (c) a notice has been given, under section 31(2) of the *Passenger Transport Services Act 2011*, to the person to whom the licence has been issued, of an intention to suspend

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or cancel the accreditation of the person and the Commission has not made a determination under section 31 of that Act to suspend or cancel, or not to suspend or cancel, the accreditation of the person.

**45. Section 78 amended (Transfer of luxury hire car licence to another vehicle)**

Section 78 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

(3) The Commission may refuse the transfer if –

- (a) the licence is suspended under section 81; or
- (b) the licence is subject to a notice of intention to suspend or cancel under section 82; or
- (c) a notice has been given, under section 31(2) of the *Passenger Transport Services Act 2011*, to the person to whom the licence has been issued, of an intention to suspend or cancel the accreditation of the person and the Commission has not made a

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determination under section 31 of that Act to suspend or cancel, or not to suspend or cancel, the accreditation of the person.

**46. Section 81 substituted**

Section 81 of the Principal Act is repealed and the following section is substituted:

**81. Cancellation or suspension of licence where accreditation cancelled or suspended**

(1) If –

(a) the Commission suspends for a period under the *Passenger Transport Services Act 2011* the accreditation of the holder of a luxury hire car licence, the licence is also suspended for the same period; or

(b) the Commission cancels under the *Passenger Transport Services Act 2011* the accreditation of the holder of a luxury hire car licence, the licence is also cancelled.

(2) A luxury hire car licence is of no effect during any period of its suspension.

(3) The holder of a luxury hire car licence that has been suspended under

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subsection (1) must not, during the period of the suspension, operate a luxury hire car service under the purported authority of that licence or cause or permit another person to operate a luxury hire car service under the purported authority of that licence.

Penalty: Fine not exceeding 100 penalty units.

**47. Section 84E amended (Application for restricted hire vehicle licence)**

Section 84E(3) of the Principal Act is amended by inserting “sole” after “be the”.

**48. Section 84L amended (Transfer of certain restricted hire vehicle licences to other vehicles)**

Section 84L of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:

- (4) The Commission may refuse to approve the transfer if –
  - (a) the licence is suspended under section 84O; or
  - (b) the licence is subject to a notice of intention to suspend or cancel under section 84P; or

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- (c) a notice has been given, under section 31(2) of the *Passenger Transport Services Act 2011*, to the person to whom the licence has been issued, of an intention to suspend or cancel the accreditation of the person and the Commission has not made a determination under section 31 of that Act to suspend or cancel, or not to suspend or cancel, the accreditation of the person.

**49. Section 84O substituted**

Section 84O of the Principal Act is repealed and the following section is substituted:

**84O. Cancellation or suspension of licence where accreditation cancelled or suspended**

(1) If –

- (a) the Commission suspends for a period under the *Passenger Transport Services Act 2011* the accreditation of the holder of a restricted hire vehicle licence, the licence is also suspended for the same period; or
- (b) the Commission cancels under the *Passenger Transport Services Act 2011* the accreditation of the holder of a restricted hire vehicle

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licence, the licence is also cancelled.

- (2) A restricted hire vehicle licence is of no effect during any period of its suspension.
- (3) The holder of a restricted hire vehicle licence that has been suspended under subsection (1) must not operate, during the period of the suspension, a restricted hire vehicle service under the purported authority of the licence or cause or permit another person to operate a restricted hire vehicle service under the purported authority of the licence.

Penalty: Fine not exceeding 100 penalty units.

**50. Section 85 amended (Register of licences)**

Section 85 of the Principal Act is amended by inserting after subsection (4) the following subsection:

- (5) The Commission may, on a website of the Department, publish the details of –
  - (a) a licence that is suspended or cancelled under this Act, including the licence number plate, that is attached to a car to which the licence relates; and

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- (b) any licence number plate that is cancelled or void.

**51. Section 86 amended (Effect of licence being suspended)**

Section 86 of the Principal Act is amended as follows:

- (a) by omitting “lapses or”;
- (b) by omitting from paragraph (a) “lapsed or”;
- (c) by omitting from paragraph (b) “had not lapsed or”;
- (d) by omitting from paragraph (c) “ended or the authority to operate the service provided under the authority of the lapsed licence is reinstated.” and substituting “ended.”.

**52. Section 90A inserted**

After section 90 of the Principal Act, the following section is inserted in Part 5:

**90A. Taxi areas**

- (1) The Commission must cause to be established and maintained a database by means of which an electronic map, setting out each of the taxi areas for the purposes of this Act, may be generated.

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- (2) The Commission must cause an electronic map to be generated by the database established under subsection (1).
- (3) The boundaries of a taxi area, shown on an electronic map that is generated under subsection (2) –
  - (a) are to broadly correspond to the boundaries of the corresponding taxi area shown more generally on the map in Schedule 1A; but
  - (b) are to indicate with greater particularity the boundaries of the corresponding taxi area shown on the map in Schedule 1A.
- (4) The Commission must enable members of the public to view electronically, at a website of the Department, a copy of the electronic map, indicating the taxi areas, that is generated under subsection (2).

**53. Section 91B amended (Falsely configuring vehicles as taxis)**

Section 91B of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(b) “, maxi-taxi” after “taxi-cab”;



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- (b) by inserting in subsection (2)(a) ‘, “maxi-taxi” after “taxi-cab”’;
- (c) by inserting in subsection (2)(b) ‘, “maxi-taxi” after “taxi-cab”’;
- (d) by inserting in subsection (2)(c) ‘, “maxi-taxi” after “taxi-cab”’.

**54. Section 91E amended (General small passenger vehicle offences)**

Section 91E of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) A person must not use a small passenger vehicle on a public street to carry a passenger for financial consideration unless –
  - (a) the person is using the vehicle in the course of operating a taxi service under the authority of a taxi licence; or
  - (b) the person is using the vehicle in the course of operating a luxury hire car service under the authority of a luxury hire car licence; or
  - (c) the person is using the vehicle in the course of operating a restricted hire vehicle service

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under the authority of a restricted hire vehicle licence; or

- (d) requests for transport by means of the vehicle are made by passengers using ride-sourcing software, within the meaning of the *Passenger Transport Services Act 2011*, and the person who owns, operates or controls a wholly or partly automated electronic system that uses the ride-sourcing software is accredited; or
- (e) the person is accredited to operate an on-demand passenger transport service by means of the vehicle.

Penalty: Fine not exceeding –

- (a) 100 penalty units for a first offence; or
- (b) 200 penalty units for a second or subsequent offence.

**55. Section 93 amended (Use of accessible vehicle with standard taxi licence)**

Section 93(3)(d) of the Principal Act is amended by omitting “AS/NZS 10542.1:2009” and substituting “AS/NZS 10542.1:2015”.

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**56. Section 94 amended (Security cameras)**

Section 94 of the Principal Act is amended by omitting “a type or make of” and substituting “the requirements to be satisfied by a”.

**57. Section 97 substituted**

Section 97 of the Principal Act is repealed and the following section is substituted:

**97. Supply of information to Commission by licence holders, &c.**

- (1) The Commission, by notice in writing given to –
  - (a) a person who is or was a person specified in subsection (2), may require the person to supply the Commission with any information relating to the price paid to the person for the transfer to another person, of a licence, referred to in that subsection, that was held by the person who transferred the licence; or
  - (b) a person who is or was a responsible operator of a perpetual taxi licence, to supply to the Commission information as to the price paid to the person for the lease of the licence to another person; or

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- (c) a person who is or was a person specified in subsection (2), may require the person to supply the Commission with information relating to the operation of a passenger transport service provided under the authority of a licence, referred to in that subsection, that the person owns or holds or owned or held.
- (2) For the purposes of subsection (1), the following persons are specified:
  - (a) the owner of a perpetual taxi licence;
  - (c) the holder of an owner-operator taxi licence;
  - (d) the holder of a wheelchair-accessible taxi licence;
  - (e) the holder of a luxury hire car licence;
  - (f) the holder of a restricted hire vehicle licence;
  - (g) the holder of a temporary taxi licence.
- (3) A person to whom a notice is given under subsection (1) must supply the information specified in the notice in writing to the Commission within the

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time specified by the Commission in the notice.

Penalty: Fine not exceeding 50 penalty units.

**58. Section 98 amended (Booking service provider)**

Section 98(1) of the Principal Act is amended by omitting “taxi dispatch service” and substituting “booking service provider”.

**59. Section 103 amended (Savings and transitional provisions)**

Section 103 of the Principal Act is amended by inserting after subsection (6) the following subsection:

- (7) Any money that was, immediately before the repeal of section 8 of this Act by the *On-Demand Transport Services Industry (Miscellaneous Amendments) Act 2020*, in the general administration fund is to be, as soon as practicable, transferred to the fund established under section 60AA of the *Passenger Transport Services Act 2011*.

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**60. Schedule 1 amended (Criteria for Wheelchair-accessible taxis, Remote Area wheelchair-accessible taxis and Substitute Wheelchair-accessible taxis)**

Clause 1 of Schedule 1 to the Principal Act is amended as follows:

- (a) by omitting from subclause (1)(d) “AS/NZS 10542.1:2009” and substituting “AS/NZS 10542.1:2015”;
- (b) by omitting paragraph (i) from subclause (1) and substituting the following paragraph:
  - (i) the vehicle, at the time of approval for use, is not more than 7 years old.
- (c) by omitting subclauses (2) and (3).

**61. Schedule 1A inserted**

After Schedule 1 to the Principal Act, the following Schedule is inserted:

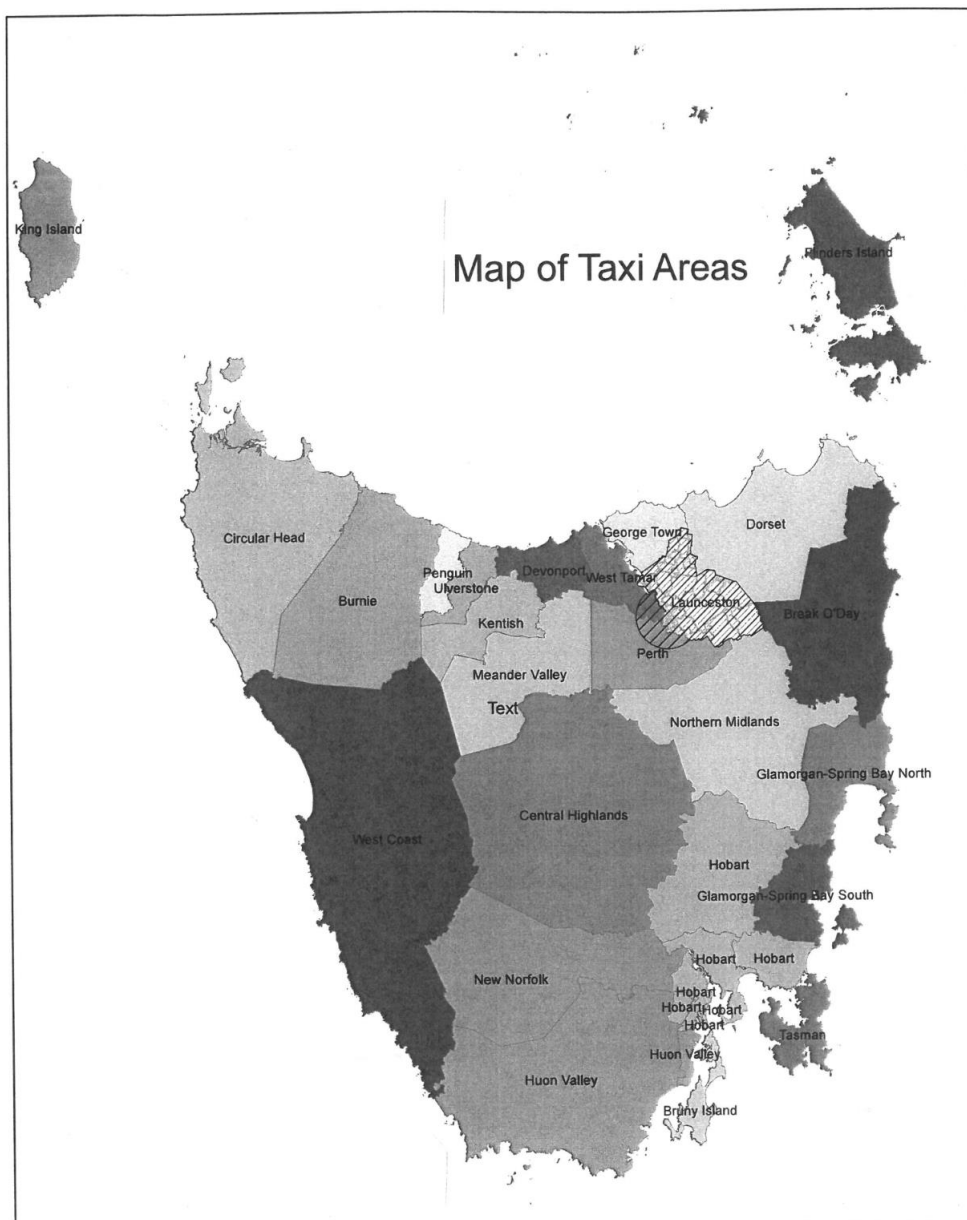
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**SCHEDULE 1A – TAXI AREAS**

Section 90A



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**62. Schedules 3 and 4 amended**

Schedules 3 and 4 to the Principal Act are repealed.

**63. Schedule 5 amended (Matters in Respect of Which Regulations May Be Made)**

Clause 1 of Schedule 5 to the Principal Act is amended by omitting paragraph (h).

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**PART 5 – CONCLUDING PROVISION**

**64. Repeal of Act**

This Act is repealed on the first anniversary of the day on which the last uncommenced provision of this Act commenced.

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