

Information Bulletin

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Compliance – Passenger Transport Operators and Drivers

Compliance with legislation

Operators and drivers of public passenger services must comply with passenger transport legislation. This includes the *Transport Operations (Passenger Transport) Act 1994*, the *Transport Operations (Passenger Transport) Regulation 2005* and the *Transport Operations (Passenger Transport) Standard 2010*.

Operators and drivers must also comply with applicable requirements under Transport Operations (Road Use Management) legislation.

It is an operator's and driver's responsibility to know their obligations under legislation.

What is compliance action?

Compliance action refers to action taken with respect to a person or entity when they are found not to be complying with the legislation.

Transport Inspectors

The department appoints Transport Inspectors state-wide to help ensure public and driver safety and to ensure compliance with legislative responsibilities. Transport Inspectors have similar powers to police officers when conducting enquiries regarding transport legislation. You are legally required to assist them in performing their duties. They will firstly identify themselves and advise you of the reason that the vehicle you are driving or travelling in has been stopped or why an interview is being conducted. You may be required to provide information and documentation to assist with their enquiries.

The duties of Transport Inspectors are wide and varied. They include on-road interceptions, both in a high profile, uniformed presence, and at times when circumstances arise, in a covert presence. Other operational duties range from administrative audits of driver and operator records as part of operator management processes to in-depth investigations of complaints.

Transport Inspectors can issue notices with substantial penalties for a range of offences to operators, drivers and in some instances, members of the public.

Offences under the *Transport Operations (Passenger Transport) Act 1994* and the *Transport Operations (Passenger Transport) Regulation 2005*

Requirements on drivers, operators, and passengers are made under the *Transport Operations (Passenger Transport) Act 1994* and the *Transport Operations (Passenger Transport) Regulation 2005*. Many of these requirements specify offences and penalties for non-compliance.

If a person does not comply with a requirement they risk being issued with an infringement notice or being charged with committing an offence and being taken to court (through issue of a Complaint and Summons).

Disqualifying offences

A person is convicted of a disqualifying offence if they are convicted by a court for committing:

- any offence against the *Transport Operations (Passenger Transport) Act 1994*;
- an offence against the *Transport Operations (Passenger Transport) Regulation 2005* that has a maximum penalty of 20 penalty units or more;
- other offences identified in the *Transport Operations (Passenger Transport) Act 1994* as being a disqualifying offence or driver disqualifying offence.

The offences specified under passenger transport legislation as disqualifying offences and driver disqualifying offences include offences against the *Criminal Code Act 1899*, the *Drugs Misuse Act 1986*, the *Weapons Act 1990*, the *Summary Offences Act 2005*, the *Classification of Computer Games and Images Act 1995*, the *Classification of Films Act 1991* and the *Classification of Publications Act 1991*.

If a person is convicted by a court for committing a disqualifying offence then action can be taken to suspend or cancel any operator accreditation, driver authorisation, taxi service licence or limousine service licence held by that person.

Compliance with requirements of the *Transport Operations (Passenger Transport) Standard 2010*

The *Transport Operations (Passenger Transport) Standard 2010* specifies requirements for operators and drivers of public passenger services. If a person does not comply with a requirement under the Standard then the person may be issued with a *Non-Compliance Notice* or a *Section 100 Notice*. A Non-Compliance Notice records details about the nature of the non-compliance and may be followed by the issue of a Section 100 Notice.

Section 100 notices

A notice issued under section 100 of the *Transport Operations (Passenger Transport) Act 1994* can direct an operator or driver to comply with one or more standards. The section 100 notice requires the person to comply with the direction for the following three years.

It is a disqualifying offence for a person not to comply with a direction given in a section 100 notice. The maximum penalty for this offence is 160 penalty units (\$18,216).

What to do if you receive an infringement notice

Information printed on the back of an infringement notice informs recipients of their options. A person is given the choice of either: (1) paying the notice, or (2) electing to go to court.

- (1) An infringement notice issued for passenger transport offence can be paid at any departmental Customer Service Centre or by sending a cheque to the address detailed on the back of the infringement notice.
- (2) To elect a court hearing, the relevant section on the back of the infringement notice should be completed and sent to the specified address.

What to do if you receive a Complaint and Summons

A Complaint and Summons will state: (1) the complaint the department is making against you, and (2) the date, time and location you are required to attend court.

If you are unable to appear, or do not wish to appear to answer the Complaint made against you, you may enter a written plea or make a written submission to the Court by addressing such correspondence to the Clerk of the Court, Magistrates Courts Office, where the matter is to be heard. If you do not appear, the Complaint may be dealt with in your absence.

If you plead "not guilty" (either in person or in writing) on the first mention date as set out in the Summons, the matter will be set for hearing at a later date by the presiding Magistrate.

Any inquiries to the Complaint should be directed to:

Business Manager (Prosecutions Unit)
Department of Transport and Main Roads
PO Box 673
Fortitude Valley Qld 4006

Telephone 13 23 80

Queries about your legal rights or similar information must be directed to your legal adviser.

What to do if you receive a section 100 notice

A notice issued under section 100 of the *Transport Operations (Passenger Transport) Act 1994* can direct a person to comply with a provision of the *Transport Operations (Passenger Transport) Standard 2010* for the next 3 years. Before issuing a section 100 notice, the department may send a person a letter advising of its intention to issue a section 100 notice. This letter may invite a person to make representations within a stated time as to why the section 100 notice should not be issued. The department will consider any representation made and then decide whether to issue the section 100 notice. If a section 100 notice is issued, it will remain in force for the next three years.

Amending/suspending/cancelling an operator accreditation or driver authorisation

An operator accreditation or driver authorisation could be amended, suspended or cancelled for any of the following reasons:

- a conviction of, or being charged with, a relevant disqualifying offence or driver disqualifying offence;
- non-compliance with a requirement of the *Transport Operations (Passenger Transport) Standard 2010*;
- for operator accreditation, when the chief executive considers a person has behaved in a way that has damaged the reputation of public passenger services or accredited operators or otherwise is contrary to the encouragement of the high quality operation of public passenger services;
- for driver authorisation, when the chief executive considers it necessary in the public interest, having regard to the purpose of driver authorisation;
- for driver authorisation, when a person is considered unsuitable because of their driving history;
- when an applicant for driver authorisation produced a document, or gave other information, to the chief executive that is false or misleading;
- when the chief executive is no longer satisfied as to the person's identification for driver authorisation;
- when a driver authorisation was issued in error.

Before issuing a notice of amendment, suspension or cancellation, the department will send a notice advising of the proposed action. The notice of proposal gives the recipient 28 days to say (in writing) why the proposed action should not be taken. If, after receiving your submission, the department decides the proposed action is warranted, a notice of amendment, suspension or cancellation will be sent.

For most circumstances, recipients of a notice of amendment, suspension or cancellation can request a review of the decision. A review is conducted by a departmental officer who was not involved in the original decision. If the recipient is not satisfied with the reviewed decision, they can apply to the Queensland Civil and Administrative Tribunal for an external review.

Note: If a person has been convicted of a category A driver disqualifying offence for which an imprisonment order was imposed, or is subject to an order or obligation under section 170(b) of the *Working with Children (Risk Management and Screening) Act 2000*, there is no provision to appeal against the ineligibility to apply for, or hold, driver authorisation. For these matters a notice of proposed action will not be sent and the person has no right of review of the cancellation or refusal of driver authorisation.

If a person is the holder of a current operator accreditation or driver authorisation and would like to continue to use their accreditation or authority until a review is finalised, they may apply to the Queensland Civil and Administrative Tribunal for a 'stay' of the decision to amend, suspend or cancel their accreditation or authority. For more information on reviews and stays, please refer to the information bulletin titled *Reviews of Decisions affecting Operator Accreditation and Driver Authorisation*.

Additional information

The information contained in this bulletin has been produced as a guide to assist in the understanding of the legislation and policy. Clarification of any information in this bulletin may be obtained from The Department of Transport and Main Roads by contacting your local Passenger Transport office of the Department.

This bulletin is an interpretation of the relevant Acts, Regulations and Standard should not be used as a reference to a point of law.

Copies of the *Transport Operations (Passenger Transport) Act 1994*, *Transport Operations (Passenger Transport) Regulation 2005* and *Transport Operations (Passenger Transport) Standard 2010* can be purchased from LitSupport Pty Ltd on 07 3223 9202 or email legislation@litsupport.com.au.

The legislation may be viewed on the internet at www.legislation.qld.gov.au. Additional information about public passenger services is available on the Department of Transport and Main Roads internet site at www.tmr.qld.gov.au/information_bulletins.