

Authorised Version
Commercial Passenger Vehicle Industry
Regulations 2018
S.R. No. 84/2018

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Authorised Version

STATUTORY RULES 2018

S.R. No. 84/2018

Commercial Passenger Vehicle Industry Act 2017

Commercial Passenger Vehicle Industry Regulations 2018

The Governor in Council makes the following Regulations:

Dated: 26 June 2018

Responsible Minister:

JACINTA ALLAN
Minister for Public Transport

ANDREW ROBINSON
Clerk of the Executive Council

Part 1—Preliminary

1 Objectives

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

- (a) the registration of booking service providers; and
- (b) the accreditation of drivers; and
- (c) consumer protections in relation to—
 - (i) fares and other charges for commercial passenger vehicle services; and
 - (ii) the accessibility of commercial passenger vehicle services; and
 - (iii) consumer complaints about service provision; and

(d) vehicle safety standards and the safety duties of industry participants; and

(e) record keeping and other operational requirements.

2 Authorising provision

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

3 Commencement

- (1) These Regulations (except regulations 5, 6, 7 and 8) come into operation on 2 July 2018.
- (2) Regulation 8 comes into operation on 1 September 2018.
- (3) Regulations 5, 6 and 7 come into operation on 1 March 2019.

4 Definitions

In these Regulations—

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

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

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

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

Examples

A taximeter, a computer tablet or a smartphone.

GST has the same meaning as it has in the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth;

health professional means—

- (a) a person registered under the Health Practitioner Regulation National Law—
 - (i) to practise in the medical profession (other than as a student); or
 - (ii) to practise in the nursing and midwifery profession as a nurse (other than as a midwife or as a student); or
- (b) an operational staff member within the meaning of the **Ambulance Services Act 1986**;

hirer means a person who requests the provision of a commercial passenger vehicle service, irrespective of whether the person will be a passenger of the commercial passenger vehicle to be used to provide the service;

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

registered operator has the same meaning as in the **Road Safety Act 1986**;

registration number, of a commercial passenger vehicle, means the distinguishing registration number assigned to the vehicle by the Roads Corporation under the **Road Safety Act 1986** on the registration of that vehicle under that Act;

relevant complaint means a complaint relating to—

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

specifications determination means a determination under regulation 11(1);

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

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

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

Part 2—Safety

Division 1—Discharge of safety duties

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

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

Penalty: 20 penalty units.

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

6 Review and revision of register of safety risks

A person to whom regulation 5 applies must review, and if necessary revise, a register maintained under regulation 5 annually.

Division 2—Notifiable incidents

7 Notifiable incidents to be reported to the regulator

- (1) The following incidents, if they occur in relation to the use of a commercial passenger vehicle to provide a commercial passenger vehicle service, are prescribed for the purposes of section 272 of the Act—
 - (a) an incident resulting in the death of or serious injury to any person;
 - (b) an incident resulting in attendance by a police officer or health professional.
- (2) The regulator must be notified, in writing, of a prescribed incident—
 - (a) in a form approved by the regulator; and
 - (b) within 10 business days after a person to whom section 272 of the Act applies becomes aware of the prescribed incident.

Part 3—Identification of commercial passenger vehicles and drivers

Division 1—Identification of commercial passenger vehicles

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

- (1) For the purposes of section 51(1)(a) of the Act, at least one of the following things must be displayed—
 - (a) signs, symbols, notices or labels indicating that the motor vehicle is a commercial passenger vehicle;
 - (b) signs, symbols, notices or labels identifying the registered booking service provider of the associated driver;
 - (c) signs, symbols, notices or labels of a type or design approved, in writing, by the regulator;
 - (d) number plates issued to the registered operator of the commercial passenger vehicle by the Roads Corporation that identify the vehicle as a commercial passenger vehicle.

Examples

- 1 Example for paragraphs (a) to (c)—a sign, symbol, notice or label containing the logo of a booking service provider.
- 2 Example for paragraph (d)—a number plate bearing the word "taxi" or a number plate bearing a registration number in the range starting with "VHA 000" and ending with "VHZ 999".

- (2) A Part 3 permission holder must not use the commercial passenger vehicle to provide a commercial passenger vehicle service unless a sign, symbol, notice or label displayed under subregulation (1) is incapable of being removed by a person seated in the driver's seat of the commercial passenger vehicle.

Penalty: 10 penalty units.

- (3) A Part 3 permission holder must not permit another person to use the commercial passenger vehicle to provide a commercial passenger vehicle service unless at the time they give their permission a sign, symbol, notice or label displayed under subregulation (1) is incapable of being removed by a person seated in the driver's seat of the commercial passenger vehicle.

Penalty: 10 penalty units.

- (4) A driver of a commercial passenger vehicle must not use the vehicle to provide a commercial passenger vehicle service unless a sign, symbol, notice or label displayed under subregulation (1) is incapable of being removed by a person seated in the driver's seat of the commercial passenger vehicle.

Penalty: 10 penalty units.

9 Commercial passenger vehicle with taxi livery must comply with specified requirements when used to provide unbooked commercial passenger vehicle services

- (1) A Part 3 permission holder commits an offence if—
- (a) the commercial passenger vehicle has taxi livery displayed on it; and

- (b) the vehicle is not compliant while the holder uses the vehicle to provide an unbooked commercial passenger vehicle service.

Penalty: 10 penalty units.

Note

An unbooked commercial passenger vehicle service extends to the use or driving of a commercial passenger vehicle by a person who is in charge of the motor vehicle and is available to provide the unbooked commercial passenger vehicle service—see the definitions of *commercial passenger vehicle service* and *unbooked commercial passenger vehicle service* in sections 3 and 4 of the Act.

- (2) A Part 3 permission holder commits an offence if—
 - (a) the commercial passenger vehicle has taxi livery displayed on it; and
 - (b) the holder permits another person to use the vehicle to provide an unbooked commercial passenger vehicle service; and
 - (c) at the time they give their permission the vehicle is not compliant.

Penalty: 10 penalty units.

Note

An unbooked commercial passenger vehicle service extends to the use or driving of a commercial passenger vehicle by a person who is in charge of the motor vehicle and is available to provide the unbooked commercial passenger vehicle service—see the definitions of *commercial passenger vehicle service* and *unbooked commercial passenger vehicle service* in sections 3 and 4 of the Act.

- (3) A driver of a commercial passenger vehicle commits an offence if—
 - (a) the commercial passenger vehicle has taxi livery displayed on it; and

- (b) the vehicle is not compliant while the driver uses the vehicle to provide an unbooked commercial passenger vehicle service.

Penalty: 10 penalty units.

Note

An unbooked commercial passenger vehicle service extends to the use or driving of a commercial passenger vehicle by a person who is in charge of the motor vehicle and is available to provide the unbooked commercial passenger vehicle service—see the definitions of *commercial passenger vehicle service* and *unbooked commercial passenger vehicle service* in sections 3 and 4 of the Act.

- (4) In this regulation—

compliant, in relation to a commercial passenger vehicle, means—

- (a) the vehicle has installed in it, or attached to it, a fare calculation device that—
- (i) complies with the specifications determination that applies to that device; and
 - (ii) meets the required standards when functioning in the vehicle; and
- (b) if the vehicle is being used, or is to be used, to provide an unbooked commercial passenger vehicle service in respect of carriage on a journey that begins in the Melbourne Metropolitan Zone or the Urban and Large Regional Zone, the vehicle has installed in it a security camera—
- (i) of a type or class approved, in writing, by the regulator; and

- (ii) that has been installed and is operating in accordance with a specifications determination that applies to that security camera; and
- (c) the vehicle has fixed to it a notice that displays fare information in the manner required under regulation 17(1)(a) and (b) or (2)(a) and (b), as the case requires;

Melbourne Metropolitan Zone has the same meaning as in section 110A of the Act;

required standards means the standards set out in regulation 18(4);

taxi livery, in relation to a commercial passenger vehicle, means a sign, symbol, notice or label that contains the word "taxi";

Urban and Large Regional Zone has the same meaning as in section 110A of the Act.

Division 2—Driver identification

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

- (1) An accredited driver who is driving a commercial passenger vehicle for the purpose of providing a commercial passenger vehicle service must ensure that identification material is clearly visible at all times to a passenger in the vehicle who is being provided the service.

Penalty: 5 penalty units.

- (2) Subregulation (1) does not apply if a booking service provider provides a photograph of the accredited driver and the number of the certificate of accreditation of the driver to the hirer of the commercial passenger vehicle

before the hirer, or the passenger for whom the commercial passenger vehicle is hired, is provided the commercial passenger vehicle service.

(3) In this regulation—

identification material means—

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

Part 4—Specifications for commercial passenger vehicles

11 Commercial passenger vehicle specifications

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

Note

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

12 Specifications—unbooked commercial passenger vehicle services

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

Penalty: 10 penalty units.

- (2) A Part 3 permission holder must not permit another person to use the commercial passenger vehicle to provide an unbooked commercial passenger vehicle service unless at the time they give their permission a fare calculation device—
- (a) is installed in the commercial passenger vehicle; and
 - (b) complies with the specifications of a specifications determination that applies to that device.

Penalty: 10 penalty units.

- (3) Subregulation (1) or (2) do not apply if—
- (a) the regulator has exempted the vehicle under regulation 11(5) from complying with a specification that, but for the exemption, would apply in relation to the vehicle; or
 - (b) the Part 3 permission holder has been exempted under section 283 of the Act and is complying with that exemption.

Note

See also regulation 18.

13 Specifications—wheelchair accessible commercial passenger vehicles

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

Penalty: 20 penalty units.

- (2) A Part 3 permission holder must not permit another person to use the commercial passenger vehicle to provide commercial passenger vehicle services to wheelchair users, unless at the time they give their permission the commercial passenger vehicle complies with the specifications of a specifications determination that applies to wheelchair accessible commercial passenger vehicles.

Penalty: 20 penalty units.

- (3) Subregulation (1) or (2) do not apply if—
- (a) the regulator has exempted the vehicle under regulation 11(5) from complying with a specification that, but for the exemption, would apply in relation to the vehicle; or
 - (b) the Part 3 permission holder has been exempted under section 283 of the Act and is complying with that exemption.

14 Specifications—applicable unbooked service

- (1) A Part 3 permission holder must not use the commercial passenger vehicle to provide an applicable unbooked service unless—

- (a) a security camera is installed in the vehicle and operating in accordance with the specifications of a specifications determination that applies to the security camera; and
- (b) the security camera is of a type or class of security camera that is approved, in writing, by the regulator.

Penalty: 20 penalty units.

- (2) A Part 3 permission holder must not permit another person to use the commercial passenger vehicle to provide an applicable unbooked service unless at the time they give their permission—

- (a) a security camera is installed in the vehicle and operating in accordance with the specifications of a specifications determination that applies to the security camera; and
- (b) the security camera is of a type or class of security camera that is approved, in writing, by the regulator.

Penalty: 20 penalty units.

- (3) A driver of a commercial passenger vehicle must not use the vehicle to provide an applicable unbooked service unless—

- (a) a security camera is installed in the vehicle and operating in accordance with the specifications of a specifications determination that applies to the security camera; and
- (b) that security camera is of a type or class of security camera that is approved, in writing, by the regulator.

Penalty: 20 penalty units.

- (4) Subregulation (1), (2) or (3) do not apply if—
- (a) the regulator has exempted the vehicle under regulation 11(5) from complying with a specification that, but for the exemption, would apply in relation to the vehicle; or
 - (b) the Part 3 permission holder or the driver of the commercial passenger vehicle have been exempted under section 283 of the Act and the permission holder or driver is complying with that exemption.

Part 5—Consumer protections

Division 1—Fares and charges

15 Definition

In this Division—

fare information means—

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

16 Fare information to be provided by booking service provider

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

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

Penalty: 10 penalty units.

Note

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

**17 Unbooked commercial passenger vehicle services—
fare information to be displayed**

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

Penalty: 10 penalty units.

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

Penalty: 10 penalty units.

- (3) A driver of a commercial passenger vehicle must not use the vehicle to provide an unbooked commercial passenger vehicle service unless fare information is displayed on a notice that is fixed—

- (a) to the outside of the vehicle so as to be clearly visible from the left side of that vehicle; and
- (b) on the inside of the vehicle in such a way that the fare information is able to be clearly read from each seating position in that vehicle.

Penalty: 5 penalty units.

18 Fare calculation devices—unbooked commercial passenger vehicle services

- (1) A Part 3 permission holder must not use the commercial passenger vehicle to provide an unbooked commercial passenger vehicle service unless a fare calculation device that meets the required standards is functioning in the commercial passenger vehicle.

Penalty: 10 penalty units.

- (2) A Part 3 permission holder must not permit another person to use the commercial passenger vehicle to provide an unbooked commercial passenger vehicle service unless, at the time they give their permission, a fare calculation device that meets the required standards is functioning in the commercial passenger vehicle.

Penalty: 10 penalty units.

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

Penalty: 10 penalty units.

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

Note

See also regulation 12.

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

- (1) This regulation applies to a driver of a commercial passenger vehicle used to provide an unbooked commercial passenger vehicle service if the driver has not agreed a fixed fare with the hirer before the service is provided.
- (2) The driver of a commercial passenger vehicle to whom this regulation applies must tell a passenger being provided the unbooked commercial passenger vehicle service if the rate used for calculating the fare for the service changes during the provision of the service.

Penalty: 10 penalty units.

- (3) The driver of a commercial passenger vehicle to whom this regulation applies must ensure that the fare calculation device installed in the vehicle is stopped immediately at the termination of the provision of the unbooked commercial passenger vehicle service.

Penalty: 10 penalty units.

20 Examination and testing of fare calculation devices

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

Penalty: 10 penalty units.

- (4) In this regulation—

relevant person means—

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

21 Provision of fare estimate or fixed fare

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

Penalty: 10 penalty units.

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

Penalty: 10 penalty units.

22 Receipt for hiring to include required information

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

Penalty: 10 penalty units.

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

Penalty: 10 penalty units.

- (3) For the purposes of subregulations (1) and (2), the required information is—
- (a) if the receipt is provided by the driver and is not produced using electronic facilities, the driver's signature; and

- (b) if the receipt is provided by the booking service provider, the name of the booking service provider; and
- (c) the registration number of the commercial passenger vehicle; and
- (d) the number of the certificate of accreditation of the driver; and
- (e) all the items that make up the fare and any additional rates and charges; and
- (f) the total amount paid; and
- (g) the date of the payment.

Division 2—Complaints

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

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

- (a) establish, implement and maintain a complaints handling system; and
- (b) ensure that every relevant complaint is investigated promptly; and
- (c) ensure that any action required to adequately address the complaint is taken promptly; and
- (d) publicly disclose—
 - (i) how a person may make a complaint; and
 - (ii) the time within which the booking service provider will respond to the complaint.

Example

A booking service provider may specify how a person may make a complaint and the time within which the booking service provider will respond to a complaint on its internet site, smartphone application or on a notice fixed to a commercial passenger vehicle.

Note

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

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

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

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

Penalty: 20 penalty units.

Part 6—Operational requirements

25 Smoking prohibited

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

Penalty: 5 penalty units.

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

26 Assistance animals

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

Penalty: 10 penalty units.

- (2) In this regulation—

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

27 Assistance for persons getting into and out of a commercial passenger vehicle

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

Penalty: 5 penalty units.

28 Passenger routes

(1) This regulation does not apply to the hiring of a commercial passenger vehicle if a fixed fare is agreed between a booking service provider or a driver and the hirer.

(2) If the hirer of a commercial passenger vehicle being used to provide a commercial passenger vehicle service nominates a route to the place where the hirer wants to be taken, the driver of the commercial passenger vehicle must take that route unless the driver has a reasonable excuse for not taking that route.

Penalty: 10 penalty units.

(3) If the hirer of a commercial passenger vehicle being used to provide a commercial passenger vehicle service does not nominate the route that the hirer wishes to be taken, the driver of the commercial passenger vehicle must take the most direct and practicable route from the place where the journey commenced to the intended destination of the hirer.

Penalty: 10 penalty units.

(4) In this regulation—

hirer includes a passenger of a commercial passenger vehicle being used to provide a commercial passenger vehicle service.

Part 7—Identity cards for authorised officers

29 Identity cards for authorised officers appointed by the regulator

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

Part 8—Exemption—booking service providers

30 Exemption from requirement to be registered as a booking service provider

- (1) For the purposes of section 53 of the Act, a person is exempt from the requirement to be registered under Part 4 of the Act to provide a booking service if the person—
 - (a) accepts bookings for commercial passenger vehicle services provided only by vehicles registered in that person's name under Part 3 of the Act; and
 - (b) has no more than 2 commercial passenger vehicles registered in that person's name under Part 3 of the Act.
- (2) This regulation expires on 1 July 2019.

Part 9—Records

31 Records to be kept by booking service providers

For the purposes of section 60(4) of the Act, the registration of a person as a booking service provider is subject to the condition that the booking service provider must keep a record of the information specified in Schedule 1 for the period specified under regulation 33(1) and in the manner specified under regulation 33(2).

Note

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

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

The provider of an unbooked commercial passenger vehicle service must keep a record of the information specified in Schedule 2 for the period specified under regulation 33(1) and in the manner specified under regulation 33(2).

Penalty: 10 penalty units.

33 Period for which and manner in which records are to be kept

- (1) For the purposes of regulations 31 and 32, the specified period is—
 - (a) subject to paragraph (b), a period of 3 years commencing on the date the record was created; and
 - (b) in the case of a record of information specified in item 1 of Schedule 1 or Schedule 2, the period commencing on the date the record was created and ending on the later of—

- (i) the date that is 3 years after the date the record was created; or
 - (ii) if the record is specified in a notice under regulation 34 or 35 before the end of the period specified in subparagraph (i), the date the regulator receives the requested record in accordance with the relevant notice.
- (2) For the purposes of regulations 31 and 32, the specified manner is—
- (a) a manner that enables the records to be read or reproduced in the English language; and
 - (b) any manner, form (including electronic) or format determined by the regulator (if any).

34 Submission of information—booking service provider

- (1) The regulator, by written notice, may direct a registered booking service provider to give to the regulator a copy of some or all of the records that the booking service provider is required to keep under regulation 31.
- (2) The notice must specify—
- (a) the manner, form (which may be electronic) or format in which the records are to be given; and
 - (b) the period of time the records are to cover; and
 - (c) the time within which the records are to be given.
- (3) For the purposes of subregulation (2)(c), the time that is specified must be reasonable.

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

Penalty: 20 penalty units.

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

- (1) The regulator, by written notice, may direct a provider of an unbooked commercial passenger vehicle service to give to the regulator a copy of some or all of the records that the provider is required to keep under regulation 32.
- (2) The notice must specify—
- (a) the manner, form (which may be electronic) or format in which the records are to be provided; and
 - (b) the period of time the records are to cover; and
 - (c) the time within which the records are to be given.
- (3) For the purposes of subregulation (2)(c), the time that is specified must be reasonable.
- (4) A provider of an unbooked commercial passenger vehicle service must comply with a notice given to them under subsection (1).

Penalty: 20 penalty units.

36 Records to be kept of non-cash payment surcharges

- (1) This regulation applies to a person who provides a relevant service that facilitates the processing of a non-cash payment transaction that is a payment of an amount that includes a non-cash payment surcharge (a *relevant transaction*).

- (2) A person to whom this regulation applies must keep records sufficient to identify—
- (a) in respect of each relevant transaction facilitated by the relevant service—
 - (i) the amount of the non-cash payment surcharge; and
 - (ii) the amount that would have been payable by the hirer in respect of the hiring to which the transaction relates if the hiring had been paid for in cash; and
 - (iii) the date on which the transaction was processed; and
 - (b) in respect of each day on which the relevant service facilitated the processing of a relevant transaction—
 - (i) the total amount of the non-cash payment surcharges that were added to the relevant transactions on that day; and
 - (ii) the total amount that would have been payable if the relevant transactions on that day were instead paid for in cash; and
 - (c) in respect of each non-cash payment processing device supplied by the person or used to process a relevant transaction—
 - (i) if the device is programmed to add a non-cash payment surcharge that is a fixed amount, the amount of that surcharge; and

- (ii) if the device is programmed to add a non-cash payment surcharge that is not a fixed amount, the basis on which the amount of the surcharge is determined; and
 - (iii) any day on which the programming of the device is set or changed—
 - (A) to make the device add a non-cash payment surcharge; or
 - (B) to change the amount the device adds as a non-cash payment surcharge; and
 - (iv) each commercial passenger vehicle in relation to which the device is used; and
 - (v) the periods during which the device is used in relation to each commercial passenger vehicle; and
 - (vi) if the device is supplied by the person—
 - (A) each person to whom the device is supplied; and
 - (B) the period during which the device is supplied to that person.
- (3) A person to whom this regulation applies must keep the records required under subregulation (2) for a period of at least 3 years after the last entries in the records are made.

Penalty: 10 penalty units.

(4) In this regulation—

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

Note

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

Schedule 1—Information to be kept by booking service providers

Regulation 31

Booked commercial passenger vehicle services

- 1 The following information in respect of each commercial passenger vehicle service for which the booking service provider provides booking services if the booking results in a journey—
 - (a) the date and time the hirer requested the commercial passenger vehicle service for;
 - (b) the driver accreditation number of the driver of the commercial passenger vehicle;
 - (c) the registration number of the commercial passenger vehicle booked;
 - (d) the date and time the journey for which the booking was made commenced;
 - (e) the address or GPS coordinate at which the journey for which the booking was made commenced;
 - (f) the date and time the journey for which the booking was made ended;
 - (g) the address or GPS coordinate at which the journey for which the booking was made ended;
 - (h) the full amount charged for the journey;
 - (i) whether or not the fare for the journey was paid for in whole or in part under a subsidy scheme administered by the regulator in respect of which the driver of the commercial passenger vehicle or the booking service provider processed that payment;
 - (j) whether or not the hiring was provided using a wheelchair accessible commercial passenger vehicle.

Complaints

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

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

Regulation 32

Unbooked commercial passenger vehicle services

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

- (a) the driver accreditation number of the driver providing the service;
- (b) the registration number of the commercial passenger vehicle;
- (c) the date and time the journey for which the hiring was made commenced;
- (d) the address or GPS coordinate at which the journey for which the hiring was made commenced;
- (e) the date and time the journey for which the hiring was made ended;
- (f) the address or GPS coordinate at which the journey for which the hiring was made ended;
- (g) the full amount charged for the journey resulting from a hiring;
- (h) whether or not the fare for the journey was paid for in whole or in part under a subsidy scheme administered by the regulator in respect of which the driver of the commercial passenger vehicle processed that payment;
- (i) whether or not the hiring was provided using a wheelchair accessible commercial passenger vehicle.

Endnotes

Penalty Units

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

The value of a penalty unit for the financial year commencing 1 July 2018 is \$161.19.

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

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