



New South Wales

# Passenger Transport Regulation 2014

under the

Passenger Transport Act 2014

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Passenger Transport Act 2014*.

GLADYS BEREJIKLIAN, MP  
Minister for Transport

## Explanatory note

The objects of this Regulation are as follows:

- (a) to apply the passenger service contract provisions of the *Passenger Transport Act 2014* to ferry services and to make transitional arrangements for existing contracts,
- (b) to provide for the application of the provisions of that Act relating to fare setting and conditions of travel, pending the commencement of the whole of that Act,
- (c) to clarify the contractual effect of the issue by TfNSW of an Opal smartcard or a ticket to a person who uses the card or ticket to obtain public transport, and the receipt of fare money by TfNSW, and the liability of TfNSW in those cases for things arising from the use of the public passenger service,
- (d) to cap the maximum taxi non-cash payment surcharge that can be specified in a fares order at 5 per cent of the taxi fare,
- (e) to prescribe certain fares offences as penalty notice offences and to set out the relevant penalties,
- (f) to provide for the transitional appointment of authorised officers.

This Regulation is made under the *Passenger Transport Act 2014*, including sections 128, 166 and 176 (the general regulation-making power) of that Act and clauses 1 and 15 of Schedule 3 to that Act.

This Regulation comprises or relates to matters of a savings and transitional nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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## Passenger Transport Regulation 2014

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### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Passenger Transport Regulation 2014*.

#### 2 Commencement

- (1) Except as provided by subclause (2), this Regulation commences on 1 December 2014 and is required to be published on the NSW legislation website.
- (2) Parts 3 and 4 of this Regulation commence on 12 December 2014.

#### 3 Definitions

- (1) In this Regulation:

***Opal card*** means a smartcard issued by TfNSW as an Opal card.

***paid area of a ferry wharf*** means all parts of a ferry wharf (being a wharf for which ticket barriers or smartcard readers are installed) that are located between the place where ferries dock and the ticket barriers or smartcard readers.

**Note.** A ferry wharf that does not have a ticket barrier will not have a paid area.

***restricted area of a railway station*** means:

- (a) if the station has no ticket barriers or smartcard readers—the platform, and
- (b) if the station has ticket barriers or smartcard readers—the platform and all other parts of the station between the platform and the ticket barriers or smartcard readers.

***the Act*** means the *Passenger Transport Act 2014*.

***the 1990 Act*** means the *Passenger Transport Act 1990*.

- (2) Notes included in this Regulation do not form part of this Regulation.

## Part 2 Passenger service contracts

### 4 Application of Division 1 of Part 3 of the Act to ferry services

- (1) The object of this clause is to provide for the transitional application of the passenger service contract provisions of the Act to ferry services pending the commencement of Division 1 of Part 3 of the Act.
- (2) Division 1 of Part 3 of the Act is taken to apply to a ferry service and the operator of a ferry service as if it were in force on the commencement of this clause.
- (3) For the purposes of subclause (2), a reference in section 36 of the Act to or in respect of accreditation under the Act, including a reference to a person who is not required to be accredited under the Act, is taken to be a reference to or in respect of accreditation under the 1990 Act, including a reference to a person who is not required to be accredited under the 1990 Act.
- (4) Except as provided by this Regulation, Part 3 and Division 2 of Part 5 of the 1990 Act, and any regulations made under those provisions, are taken not to apply to a ferry service or the operator of a ferry service.
- (5) Subclauses (2) and (4) do not affect a contract in force under Part 3 of the 1990 Act immediately before the commencement of this clause and the 1990 Act (other than Division 1 of Part 3) continues to apply to the contract.

**Note.** Section 16AE of the 1990 Act also does not apply (see clause 9 (2)).

### 5 Exemption of high speed Manly ferry service

- (1) A ferry service that is provided by a ferry operated between Circular Quay and Manly is exempted from the operation of section 39 (1) of the Act, as applied by clause 4, if the usual period of the journey between those places using that service is less than 20 minutes.
- (2) Division 3 of Part 11 of the *Passenger Transport Regulation 2007* does not apply to the ferry service.
- (3) This clause ceases to have effect on 1 April 2015.

### 6 Exclusion of certain tourist services

- (1) Section 39 (2), as applied by clause 4, does not apply to a tourist service that is provided by a ferry operating between the Circular Quay precinct and Manly (with or without stops) if the usual period of the journey between those places using that service is less than 30 minutes.
- (2) This clause does not apply to a tourist service until on or after 1 April 2015 if the usual period of the journey is less than 20 minutes.
- (3) In this clause:

**Circular Quay precinct** means any of the following wharves:

- (a) Man-O'-War steps,
- (b) Commissioner's steps,
- (c) Harbour Master's steps,
- (d) Circular Quay Wharf 2, 3, 4, 5 or 6,
- (e) Eastern Pontoon North,
- (f) Eastern Pontoon South.

**Manly** means any wharf within the local government area of Manly.

## Part 3 Passenger transport fares, concessions and fees

### 7 Savings and transitional provisions

- (1) For the purposes of the application of Part 7 of the Act pending the commencement of the whole of the Act, the following have effect:
  - (a) a reference in that Part to a public passenger service is taken to be a reference to a public passenger service within the meaning of the 1990 Act,
  - (b) a reference in that Part to a taxi service is taken to be a reference to a taxi-cab service within the meaning of Part 4 of the 1990 Act,
  - (c) a reference in that Part to a hire car service is taken to be a reference to a private hire vehicle service within the meaning of Part 4A of the 1990 Act,
  - (d) a reference in that Part and this Part to a passenger service contract is taken to be a reference to a service contract within the meaning of the 1990 Act,
  - (e) a reference in that Part to a taxi is taken to be a reference to a taxi-cab within the meaning of the 1990 Act,
  - (f) a reference in that Part to the holder of a licence for a taxi is taken to be a reference to the holder of a licence for a taxi-cab under the 1990 Act.
- (2) For the purposes of the application of Part 7 of the Act pending the commencement of the whole of the Act, sections 16AE and 28J of the 1990 Act have no effect in relation to a passenger service contract.
- (3) On the commencement of Part 2 of this Regulation, Division 2 of Part 7 of the Act applies to a service provided by an operator under a service contract referred to in section 16AE of the 1990 Act that is also a contract of a kind referred to in clause 6 (5) as if that Division were in force on that commencement.

### 8 Conditions of travel—savings and transitional provision

- (1) The conditions of travel for a public passenger service before the commencement of this Regulation continue to apply to that public passenger service.
- (2) The conditions of travel for a public passenger service operated by a corporation constituted under the *Transport Administration Act 1988* or the regulations under that Act may be amended from time to time by the corporation that operates the public passenger service by order published in the Gazette.
- (3) Nothing in this clause prevents the conditions of travel for a public passenger service (other than a service referred to in subclause (2)) from being amended at any time.

### 9 Conferral of authority to travel

- (1) This clause applies to Opal cards and to the provision of a ticket for the use of a public passenger service if the purchase money for the ticket is payable to TfNSW (whether directly or under a passenger service contract with the operator of the service or under any other agreement).
- (2) It is a condition of an Opal card or a ticket to which this clause applies that TfNSW is taken to confer a lawful authority to travel in accordance with any conditions on which the card or ticket was issued.
- (3) TfNSW is not taken to confer authority to travel unless the holder of the card or ticket has paid the correct fare for the travel concerned.

### 10 Deemed contracts for provision of public passenger service

- (1) This clause applies if a person (the *passenger*):
  - (a) uses an Opal card to access a public passenger service, or

- (b) uses any other ticket to access a public passenger service and the purchase money for the ticket is payable to TfNSW (whether directly or under a passenger service contract with the operator of the service or under any other agreement).
- (2) A contract between the passenger and the operator of the public passenger service for the provision by the operator to the passenger of transport by means of the public passenger service is taken to be formed when the passenger accesses the public passenger service.
- (3) The contract:
  - (a) is taken to contain the conditions of travel for a passenger of the public passenger service and any other conditions that are applicable to that service under the Act or this Regulation, and  
**Note.** See clause 8 for conditions of travel.
  - (b) does not affect any contract between TfNSW and the passenger or any other person relating to other matters in respect of the purchase of the Opal card or ticket, and
  - (c) does not affect any conferral by TfNSW of an authority to travel.
- (4) TfNSW is not, because of the issue of an Opal card or a ticket to a passenger for the purposes of the use of a public passenger service or the receipt of revenue from the issue of an Opal card or a ticket:
  - (a) the operator of the public passenger service for the purpose of the provision of transport to the passenger, or
  - (b) a party to the contract established under subclause (2), or
  - (c) liable for any matter or thing done or omitted to be done by the operator of the public passenger service, or anything done or omitted to be done by a person acting under the direction of the operator, in respect of the provision of transport to the passenger, or
  - (d) liable with respect to the carriage of the passenger, or
  - (e) taken to be in a relationship of principal and agent with the operator of the public passenger service for the provision of a specified public passenger service.
- (5) For the purposes of this clause, a person *accesses a public passenger service* in the following circumstances:
  - (a) the person boards a bus used to provide the service,
  - (b) the person enters the restricted area of a railway station, other than by alighting from a train,
  - (c) the person enters the paid area of a ferry wharf, other than by alighting from a ferry,
  - (d) the person boards a ferry used to provide the service, if there is no paid area,
  - (e) the person boards a light rail vehicle used to provide the service.

#### 11 Taxi non-cash payment surcharge

- (1) A fares order is not to specify a taxi non-cash payment surcharge that is greater than 5 per cent of the amount payable for the same hiring of the taxi to which the surcharge relates.
- (2) In this clause, *fares order* and *taxi non-cash payment surcharge* have the same meanings as in Division 2 of Part 7 of the Act.

## **Part 4 Miscellaneous**

### **12 Penalty notice offences and penalties**

For the purposes of section 166 of the Act:

- (a) the offence created by section 127 of the Act is an offence for which a penalty notice may be served, and
- (b) the penalty prescribed for the offence is \$350, in the case of an individual, and \$3,500, in the case of a body corporate.

### **13 Authorised officers**

- (1) An authorised officer who held office under the 1990 Act immediately before the commencement of this Regulation is taken to have also been appointed as an authorised officer, on the same terms, under the Act.
- (2) Without limiting subclause (1), an authorised officer who was authorised under the 1990 Act to issue a penalty notice for offences relating to fares or tickets under that Act or the regulations under that Act is taken to be authorised to issue a penalty notice for an offence created by section 127 of the Act.
- (3) An identity card issued to an authorised officer under the 1990 Act, and in force under that Act immediately before the commencement of this Part, is taken to be an identity card issued under section 156 of the Act.