

TRANSPORT AND OTHER LEGISLATION AMENDMENT BILL 2023

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The Chair
Transport And Resources Committee
Parliament House George Street Brisbane Qld 4000

Dear Chair

RE: Transport and Other Legislation Amendment Bill 2023

We make reference to the above Bill. Firstly, we would like to thank the committee for accepting a late submission on the bill noting that submissions closed 1 November.

The Queensland Bus Industry Council (QBIC) is the peak industry association representing Bus Operators and Industry Manufacturers and Supply Partners in Queensland. QBIC for over 100 years been representing and supporting the bus industry and the safety of the travelling public.

QBIC has become aware that the Bill, explanatory memorandum and the testimony of departmental officers has indicated that the Safety Duties as presented in the Bill are similar to those of the Queensland WHS Act and those of the Heavy Vehicle National Law (HVNL) (Qld). It must be clearly stated that these two Acts approach safety duties and responsibilities differently.

The WHS Act presents a PCBU as the primary responsible officer holder. Other Officers, hold duties of their own but ultimately the PCBU is accountable. The HVNL (Qld) presents a safety system, duties and responsibilities whereby the whole contractual chain holds a shared duty of care. Even though these two pieces of legislation are in force the Bill is attempting to add an additional regulation by conflating the current regulation.

The Bus Industry in Queensland employs approximately 20,000 employees and has a fleet of over 11,500 vehicles. The industry consists of Public Passenger services, School and Long Distance Tour and Charter (LDTC) sub sectors. 340 School Bus Operators provide over 860 School Bus services every school day. Additionally, LDTC Operators service Queensland small communities and businesses by providing tourism opportunities which is an important multiplying economic driver. The average age of bus drivers is 56 and predominately male, with significant driver shortages being experienced in the industry. Wages are low and predominately set by Government contracts, and Industry is presently experiencing significant industrial action seeking higher wages.

QBIC will identify and address aspects of the Bill as examples of our concerns supporting our perspective that the bill is duplicitous regulation in relation to safety obligations for passenger transport, causing or leading to legal unintended consequences.



Example 1, definition of reasonably practicable.

Section 67 of the Transport and Other Legislation Bill 2023 (The Bill) states

67(1) What is reasonably practicable in ensuring safety

In this part, reasonably practicable, in relation to a duty to ensure safety, means that which is, or was at a particular time, reasonably able to be done in relation to the duty, weighing up all relevant matters, including—

- (a) the likelihood of a safety risk, or damage to property, happening; and*
- (b) the harm that could result from the risk or damage; and*
- (c) what the person knows, or ought reasonably to know, about the risk or damage; and*
- (d) what the person knows, or ought reasonably to know, about the ways of—
 - (i) removing or minimising the risk; or*
 - (ii) preventing or minimising the damage; and**
- (e) the availability and suitability of those ways; and*
- (f) the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.*

Queensland Health and Safety Act states

18 What is reasonably practicable in ensuring health and safety

In this Act, reasonably practicable, in relation to a duty to ensure health and safety, means that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and 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 the risk; and*
- (c) what the person concerned knows, or ought reasonably to know, about—
 - (i) the hazard or the risk; and*
 - (ii) ways of eliminating or minimising the 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 available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.*

The HVNL (Qld) states

reasonably practicable, in relation to a duty, means that which is, or was at a particular time, reasonably able to be done in relation to the duty, weighing up all relevant matters, including—

- (a) the likelihood of a safety risk, or damage to road infrastructure, happening; and*
- (b) the harm that could result from the risk or damage; and*
- (c) what the person knows, or ought reasonably to know, about the risk or damage; and*
- (d) what the person knows, or ought reasonably to know, about the ways of—
 - (i) removing or minimising the risk; or*
 - (ii) preventing or minimising the damage; and**
- (e) the availability and suitability of those ways; and*
- (f) the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.*



In comparing these definitions we see the following table:

Transport Bill	NHVL (Qld)	WHS Act	Concern
a) the likelihood of a safety risk, or damage to property, happening; and	(a) the likelihood of a safety risk, or damage to road infrastructure, happening; and	a) the likelihood of the hazard or the risk concerned occurring; and	The bill seems to not understand the existence of hazards and only refers to risk and damage.
b) the harm that could result from the risk or damage; and	(b) the harm that could result from the risk or damage; and	b) the degree of harm that might result from the hazard or the risk; and	The bill has removed the consideration of the degree of harm.
c) what the person knows, or ought reasonably to know, about the risk or damage; and	(c) what the person knows, or ought reasonably to know, about the risk or damage; and	c) what the person concerned knows, or ought reasonably to know, about— (i) the hazard or the risk; and (ii) ways of eliminating or minimising the risk; and	The bill again confuses damage for hazard.
d) what the person knows, or ought reasonably to know, about the ways of— (i) removing or minimising the risk; or (ii) preventing or minimising the damage; and	(d) what the person knows, or ought reasonably to know, about the ways of— (i) removing or minimising the risk; or (ii) preventing or minimising the damage; and	No equivalent section in the WHS Act	
e) the availability and suitability of those ways; and	(e) the availability and suitability of those ways; and	d) the availability and suitability of ways to eliminate or minimise the risk; and	The bill loses the consideration of minimising the risk
f) the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.	(f) the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.	e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.	



The example above indicates that the Bill has been drafted in what we believe is a preference for the HVNL (Qld) legislation. The Bill however clearly recognises that the WHS Act and HVNL (Qld) are safety law as defined in section 67. QBIC is unclear how this will interrelate with section 67K of the Bill. There is no indication in the explanatory note as to why and how these pieces of legislation will interact particularly with the transfer of Queensland compliance and other duties to the NHVR.

Example 2

QBIC has identified confusing terms that are important for the Person Conducting a Business or Undertaking (PCBU) to ensure they and their staff understand their responsibilities. The Bill does not to have a definition of an Executive Officer. However, the Transport Operations (Road Use Management) Act 1995 states that an

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director, or the person's position is given the name of executive officer.

The WHS Act however does clearly define what an "Officer" is.

Officer means -

- (a) an officer within the meaning of section 9 of the Corporations Act 2001 of the Commonwealth other than a partner in a partnership; or*
 - (b) an officer of the State, Commonwealth or another State within the meaning of section 247; or*
 - (c) an officer of a public authority within the meaning of section 252;*
- other than an elected member of a local government acting in that capacity.*

The NHVL Act states

executive officer, of a corporation, means—

- (a) a director of the corporation; or*
- (b) any person, by whatever name called and whether or not the person is a director of the corporation, who is concerned or takes part in the management of the corporation.*

Significantly, the Bill and current Acts have different definitions and as such where PCBU's are subject to all three acts, how are they to determine which definition is the correct one in different scenarios of prosecution or even disqualification by TMR. Its foreseeable that this would cause legal issues and is not clear and concise legislation.

Example 3

The WHS Act clearly states that a PCBU has the primary duty of care and explains in detail, what is required of the PCBU including the extent of the control and what aspects of work they are responsible for. The HVNL (Qld) states

Primary duty (1) Each party in the chain of responsibility for a heavy vehicle must ensure, so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle.

These are very different concepts and have been drafted for very different purposes.



Section 67L of the Bill introduces the principle of shared responsibility. Concerningly wedged between section 67J and 67L is section 67K. Which contains the following wording:

67K Relationship with other safety laws

(1) If a provision of this part and a provision of another safety law deal with the same thing 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 for the person to comply with a provision of this part and a provision of another safety law dealing with the same thing, the person must comply with—

(a) the provision of the other safety law; or

(b) if, under the other safety law, the person is required to comply with a provision of another safety law—the provision of the other safety law.

(3) Evidence of a contravention of this part is admissible in any proceeding for an offence against a provision of another safety law.

(4) If an act, omission or circumstance constitutes an offence under this part and another safety law, the offender is not liable to be punished more than once for the act, omission or circumstance

Section 67K(1) states that "and it is possible to comply with both provisions, a person must comply with both provisions" then a duty holder must comply with both safety laws. This results in the extraordinary circumstance that regardless of cost, practicality or common sense even if there is the smallest chance or practicality of complying with both, it **must** be done otherwise a duty holder is in breach. In our research we are unable to find similar provisions in either of the other Acts. The WHS Act "allows for assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk." The Bills proposition in this case is simply untenable.

Subsection 67K(2) uses the word "however". This infers that subsection 67K(2) is only enacted if subsection 1 is not fulfilled. If a duty holder can't comply with both safety provisions, they must comply with either the other safety laws or a safety provision in a third piece of legislation. Does this then imply that other "safety provisions" will always take precedence over the Bill? QBIC have been unable to identify any area in the Bill that would not be currently covered by either of the two Acts namely WHS and HVNL.

Fundamental legislative principles are defined in Section 4 of the Legislative Standards Act 1992 (Qld). This states that "fundamental legislative principles are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law". Regarding FLPs, Section 4(3) of the Legislative Standards Act 1992 states at subsection K that...

(K) is unambiguous and drafted in a sufficiently clear and precise way.

It is difficult to see how the wording in sections 67K (1) and (2) are sufficiently clear and precise. To precisely and clearly describe to a PCBU Officer, Executive Officer, Officer, Worker or a Driver the Bills wording of "to the extent it is not possible for the person to comply" or "(b) if, under the other safety law, the person is required to comply with a provision of another safety law—the provision of the other safety law" has not been achieved.



Example 4

The Bill's sections 67J identifies 7 positions that qualify as Duty Holders and excludes one other. HVNL (Qld) introduces a shared responsibility in the contractual chain due to the nature of the Heavy Vehicle Industry. The Chain of Responsibility (CoR) was introduced to recognise that multiple parties may be responsible for breaches of the HVNL committed by the driver. As a party in the CoR that exercises (or has the capability of exercising) control or influence over any transport task, duty holders have a responsibility to ensure compliance with the HVNL. The HVNL (Qld) states

26A Principle of shared responsibility

- (1) The safety of transport activities relating to a heavy vehicle is the shared responsibility of each party in the chain of responsibility for the vehicle.*
- (2) The level and nature of a party's responsibility for a transport activity depends on—*
 - (a) the functions the person performs or is required to perform, whether exclusively or occasionally, rather than—*
 - (i) the person's job title; or*
 - (ii) the person's functions described in a written contract; and*
 - (b) the nature of the public risk created by the carrying out of the transport activity; and*
 - (c) the party's capacity to control, eliminate or minimise the risk.*

Sections 26 B and C of the HVNL demonstrate a set of principles that are required in relation to Primary Duty and Duty of Executives based on a shared responsibility safety system ensuring that the whole contractual chain is accountable considering their role and place in the contractual chain.

However, an important note that the Bill at section 67 J (3) demonstrates that the State has excluded itself from being responsible for any contractual arrangements or services. This is demonstrated by:

67 J (3) To remove any doubt, it is declared that a reference in this chapter to a duty holder for a road-based public passenger service does not include a reference to the State or an authorised person.

The Transport and Main Roads Department (TMR) controls and is responsible for all state funded School Bus Contracts, asset purchasing/replacement/disposal, remuneration/contractual payments, route design, customer ticketing and technical standards in delivering Bus Services. Queensland Education funds the School Transport system through an interdepartmental agreement with TMR. TMR negotiates contracts directly with operators based on funding received from Education Queensland.

TMR controls identical responsibilities for Public Transport, through "TransLink" services. Under HVNL Qld TMR has a shared responsibility for ensuring safety. It is concerning that the organisation in the contractual chain responsible for such a large impact on service delivery and safety are exempting themselves from the safety requirements that all operators and Drivers must abide by. It is our view that the HVNL (Qld) would not be able to enforce the same standard of safety on TMR as it would for other private and public operators if the Bill was to proceed as it stands.



However, this seems at odds when we look at the WHS Act. it states “

(b) an officer of the State, Commonwealth or another State within the meaning of section 247;” or

Section 247 WHS Act states

Section 247 Officers

(1) A person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business or undertaking of the State, Commonwealth or another State is taken to be an officer of the State, Commonwealth or other State for the purposes of this Act.

(2) A Minister of a State or the Commonwealth is not in that capacity an officer for the purposes of this Act.

We believe that the exemption in the Bill is contrary to the State Governments previous position of supporting a harmonisation between the WHS Act and the HVNL. We also believe that the Bill does not support the HVNL (Qld) given TMR and Education Queensland hold responsibility for contracting the vast majority of bus services in the state on appearances receive an exemption from their shared responsibility in the contractual chain. Ministers of the Crown are not Officers due to their position as members of the legislature. QBIC believes this is not the case for Officers of TMR or Education Queensland who conduct contract negotiations including contract value, tender specifications, set KPI's and other metrics such as on time running that Operators and their staff must comply with.

Attached to this submission we also supply a discussion paper from TMR that has been received regarding changes to be made after the passage of this legislation. The closing date for submissions for the Department is 1 December 2023. We think this discussion paper is premature on the basis that consultation is being considered prior to the industry seeing the outcome of this Bill. Given our concerns raised above it is difficult to assess the impact of the Bill and these changes.

QBIC believes that the Bill as presented does not provide a clear and precise explanation of the law or other laws that work in conjunction to it.

We thank the committee for the ability to supply this response on short notice and we would appreciate the opportunity to discuss with the Committee if possible.

Sincerely,

[Redacted Signature]

Jason ODwyer
Executive Director/Association Secretary
Queensland Bus Industry Council Inc.

Review of the Transport Operations (Passenger Transport) Standard 2010

Discussion Paper

October 2023



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Acronyms and definitions

ADR	Australian Design Rules, which are national standards for vehicle safety, anti-theft and emissions.
ALVSR	<i>Australian Light Vehicle Standards Rules 2015.</i>
BEA	Booking Entity Authorisation. In passenger transport legislation, this is defined as an authorisation under which a person may provide booking services for a booked hire service.
Booking service providers	In passenger transport legislation, this is a person who arranges a booking (other than hire-on-the spot) for a public passenger service.
CTP insurance	Compulsory third party insurance.
COI	Certificate of Inspection.
Code of Conduct	To keep other passengers and bus drivers safe and comfortable, all school students are required to comply with the <i>Code of Conduct for School Students Travelling on Buses</i> . The code sets out the expected behaviour of students while travelling on buses and the consequences for breaching the code and provides a framework to manage student misconduct. The Code of Conduct can be found at https://translink.com.au/travel-with-us/school-travel/school-travel-info/code-of-conduct .
Driver	A driver is the person operating the vehicle used to provide a public passenger service.
DA	Driver authorisation. In passenger transport legislation, this is defined as an authorisation that authorises the holder to drive a vehicle to provide a public passenger service of a particular kind. The purpose of authorising drivers is to maximise public confidence in the drivers of public passenger vehicles.
HVNL Qld	<i>Heavy Vehicle National Law (Queensland).</i>
HVS Regulation	<i>Heavy Vehicle (Vehicle Standards) National Regulation.</i>
MAIA	<i>Motor Accident Insurance Act 1994.</i>
Operator	An operator is a person carrying on the business of providing a public passenger service. This is different to a registered operator of a vehicle as described below.
OA	Operator accreditation. In passenger transport legislation, an operator accreditation authorises the holder to provide a particular kind of public passenger service. The purpose of accrediting operators is to encourage the high-quality operation of the services.
PT Act	<i>Transport Operations (Passenger Transport) Act 1994.</i>
PT Regulation	<i>Transport Operations (Passenger Transport) Regulation 2018.</i>
PT Standard	<i>Transport Operations (Passenger Transport) Standard 2010.</i>
pu	Penalty unit.
Public passenger service	In passenger transport legislation, this is defined as a service for the carriage of passengers if: <ul style="list-style-type: none"> • the service is provided for fare or other consideration; or

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	<ul style="list-style-type: none"> • the service is provided in the course of a trade or business (but not if it is provided by an employer solely for employees); or • the service is a courtesy transport service or community transport service. <p>It includes a driver service but does not include services exempted under the PT Regulation.</p>
Public passenger vehicle	In passenger transport legislation, this means a vehicle used to transport members of the public and includes a bus, a ferry, a taxi, a fixed track vehicle, an aircraft, a limousine, and a booked hire vehicle. It also includes other vehicles used to provide a public passenger service and a vehicle classified by regulation as a public passenger vehicle.
Queensland Road Rules	<i>Transport Operations (Road Use Management-Road Rules) Regulation 2009.</i>
Registered operator	The registered operator of a vehicle is the person in whose name the vehicle is registered. Note that the registered operator may or may not be the same person as the operator carrying on the business of providing a public passenger service.
Relevant transport legislation	Relevant transport legislation for the future framework will include the: <ul style="list-style-type: none"> • PT Act and the PT Regulation (the PT Standard is proposed to expire); • TORUM and its regulations; • HVNL Qld and its regulations; and • MAIA and its regulations.
Relevant service	A relevant service is a public passenger service for which OA is required.
Relevant vehicle	A relevant vehicle is a vehicle used to provide a public passenger service for which DA is required, other than a booked hire service or taxi service.
Restricted DA	Restricted DA is a type of driver authorisation that may only be issued by accredited operators of community or courtesy transport services to their drivers.
Safety duty	A safety duty is a positive obligation that requires a person to take a proactive and preventative approach to safety. This involves a person eliminating risks, and, if that is not possible, reducing risks. A safety duty regulatory framework is proposed for all road-based passenger services through the Transport Bill. Further information can be found in 1.2.
SMP	Safety Management Plan. A SMP is a documented plan to identify hazards and assess and manage risks and will complement the operator's safety duties by adopting a proactive approach to managing safety. A SMP does not need to consist of only one document – it is possible for the SMP to comprise multiple documents, which could include those prepared to meet obligations under other legislation. Further information can be found in 1.2.
Section 100 notice	Under section 100 of the PT Act, if the chief executive considers a person has not complied with the PT Standard, the chief executive may give the person a written direction to comply with the PT Standard. Failing to comply with the direction is an offence with a maximum penalty of 160 penalty units (\$24,768 in 2023-24) and may be subject to an infringement notice for 4 penalty units (\$619 in 2023-24).
SEQ	South East Queensland.
TMR	The Queensland Department of Transport and Main Roads.
TORUM	<i>Transport Operations (Road Use Management) Act 1995.</i>

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Transport Bill	<i>Transport and Other Legislation Amendment Bill 2023</i> . The Transport Bill was introduced to Parliament on 12 October 2023 and proposes amendments to the PT Act to provide that the safety duty that currently applies to personalised transport services will be updated and extended to apply to persons who influence the safety of other road-based public passenger services. Further information (including a link to the Transport Bill) can be found in 1.2.
Vehicle Standards and Safety Regulation	<i>Transport Operations (Road Use Management—Vehicle Standards and Safety) Regulation 2021</i> .
WHS Act	<i>Work Health and Safety Act 2011</i> .
WHS Regulation	<i>Work Health and Safety Regulation 2011</i> .

Guide to this discussion paper

This paper will be of particular interest to **drivers** of relevant vehicles and **operators** of relevant services as they are currently regulated by the PT Standard. To assist these groups (and any other stakeholders) navigate through the discussion paper and target issues of the most relevance to them, the tables below summarise the proposed approach for each topic and provide a fast path to further information if required.

Otherwise, this discussion paper includes:

- Chapter 1 as an introduction to the review of the PT Standard and associated changes proposed through the Transport Bill;
- Chapter 2 which outlines the proposed approaches for each provision of the PT Standard; and
- an Appendix which provides some diagrams as background information about the future safety duties and safety management plan requirements.

Topics impacting drivers of relevant vehicles

Topics impacting the driver	Proposed approach	Topic # in this paper
Licence requirements	Expire because they effectively duplicate the requirements in the <i>Transport Operations (Road Use Management) Act 1995</i> (TORUM).	2.1
Alcohol and drugs	Expire because it effectively duplicates the requirements in TORUM.	2.2
Fatigue management	Expire because it will be effectively managed by the proposed safety duty.	2.3
Operational safety of vehicles – general	Expire because it will be effectively managed by the proposed safety duty.	2.4
Overloading	Expire because it will be effectively managed under existing legislation and the proposed safety duty.	2.5
Standing passengers for certain services	Expire provisions relating to no standing passengers in long distance scheduled passenger services and tourist services, because it will be effectively managed under existing legislation and the proposed safety duty.	2.6
No standing passenger bus	Retain and transition to the PT Regulation to ensure that passengers are not standing on a bus unless it is specifically designed to carry standing passengers.	2.6
No standing passenger road	Retain and transition to the PT Regulation, because it addresses specific safety issues on roads with a higher risk profile.	2.7
Standing passengers in a school bus for more than 20km	Two options are presented for feedback: <ol style="list-style-type: none"> 1. Expire the requirement because it will be effectively managed by the proposed safety duty; or 2. Retain and transition to the PT Regulation. 	2.8
Standing Passengers for buses fitted with seatbelts	Retain and transition to the PT Regulation.	2.9

Topics impacting the driver	Proposed approach	Topic # in this paper
3 for 2 seating	Retain and transition to the PT Regulation.	2.10
Customer service	Two options are presented for feedback: <ol style="list-style-type: none"> 1. Expire the requirement because it will be managed by the operator and any safety risks will be effectively managed by the proposed safety duty; or 2. Retain and transition to the PT Regulation. 	2.11
Compliance with TORUM and the HVNL Qld	Expire because they duplicate the requirements in TORUM and the HVNL Qld.	2.13
Compliance with the Code of Conduct	Retain and transition to the PT Regulation.	2.14
Activating auxiliary brakes	Expire because the auxiliary brake provisions will be effectively managed by the proposed safety duty.	2.15
Incident management	Retain the requirement that the driver must tell the passengers the reason for the disruption and the alternate arrangements for the service and transition to PT Regulation.	2.31

Topics impacting operators of relevant services

Topics impacting the operator	Proposed approach	Topic # in this paper
Fatigue management	Retain the fatigue information management requirements and transition to the PT Regulation Expire other requirements because they will be effectively managed by the proposed safety duty.	2.3
Operational safety of vehicles – general	Expire because it will be effectively managed by the proposed safety duty.	2.4
Overloading	Expire because it will be effectively managed under existing legislation and the proposed safety duty	2.5
Standing passengers for certain services	Expire provisions relating to no standing passengers on long distance scheduled passenger services and tourist services, because they will be effectively managed under existing legislation and the proposed safety duty.	2.6
No standing passenger bus	Retain and transition to the PT Regulation, to ensure that passengers are not standing on a bus unless it is specifically designed to carry standing passengers.	2.6
No standing passenger road	Retain and transition to the PT Regulation, because it addresses specific safety issues on roads with a higher risk profile.	2.7
Standing passengers in a school bus for more than 20km	Two options are presented for feedback: <ol style="list-style-type: none"> 1. Expire because it will be effectively managed by the proposed safety duty; or 	2.8

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Topics impacting the operator	Proposed approach	Topic # in this paper
	2. Retain and transition to the PT Regulation.	
Standing Passengers for buses fitted with seatbelts	Retain and transition to the PT Regulation.	2.9
3 for 2 seating	Retain and transition to the PT Regulation.	2.10
Customer service	Two options are presented for feedback: 1. Expire because it will be managed by the operator and any safety risks will be effectively managed by the proposed safety duty; or 2. Retain and transition to the PT Regulation.	2.11
Compliance with the Code of Conduct	Retain and transition to the PT Regulation.	2.14
Activating auxiliary brakes	Expire because the auxiliary brake provisions will be effectively managed by the proposed safety duty.	2.15
Training of operators	Retain and transition to the PT Regulation.	2.16
Training of drivers	Retain and transition the following to the PT Regulation: <ul style="list-style-type: none"> • ensure each driver is given training in the driver’s obligations under the PT Act before the driver drives a vehicle providing the service; • the training must be given under a documented training program; and • the operator must keep a copy of the documented training program. 	2.17
Compliance with relevant vehicle standards and the vehicle standards regulation	Retain and transition to the PT Regulation.	2.18 and 2.19
Safe mass limits for buses built before May 1992	Expire because it is no longer needed. Any buses built before May 1992 that continue to provide passenger services should already have been specifically exempted.	2.20
Type of vehicle – design and padding	Expire because they will be effectively managed by the proposed safety duty.	2.21
Age of vehicle and life extensions	Two options are presented for feedback: 1. Expire the vehicle age requirements because they will be effectively managed under the proposed safety duty 2. Retain and transition to the PT Regulation.	2.22
Luggage	Expire because they will be effectively managed by the proposed safety duty.	2.23

Topics impacting the operator	Proposed approach	Topic # in this paper
Warning signs and lights on school buses	Retain through an existing provision of the <i>Heavy Vehicle (Vehicle Standards) National Regulation</i> and an amendment to the Vehicle Standards and Safety Regulation.	2.24
Frame inspections and structural repairs	Two options are presented for feedback: <ol style="list-style-type: none"> 1. Expire because they will be effectively managed under the proposed safety duty 2. Retain and transition to the PT Regulation. 	2.25 and 2.26
Compulsory third party insurance	Retain and transition to the PT Regulation.	2.27
Documented maintenance program	Retain and transition to the PT Regulation.	2.28
Maintaining vehicles in a clean, tidy and comfortable condition	Expire because it largely relates to the cosmetic appearance of the vehicle and any safety related elements would be managed under the proposed new safety duty.	2.29
Access to information and the reliability of services	Expire because there are potentially other tools which ensure that the public is provided with a convenient way to get information about timetables and designated transport points.	2.30
Incident management	Expire the incident management plan requirements because they will be effectively managed by the proposed SMP. Retain and transition the requirement for an operator to record incidents and keep incident records to the PT Regulation.	2.31
Destination signs	Expire and the issue will be dealt with as a business decision, or under contract.	2.32
Complaints	Two options are presented for feedback: <ol style="list-style-type: none"> 1. Expire because they will be effectively managed under the proposed safety duty 2. Retain and transition to the PT Regulation. 	2.33

Who else might have an interest in this review?

In addition to operators of relevant services and drivers of relevant vehicles, this document may also be of interest to others involved in, impacted by, or interested in the provision of public passenger services, including, for example, registered operators of vehicles (even if they are not the operator of a relevant service), passengers of these services, or groups that represent the above parties.

The PT Standard does not apply to public passenger services for which the OA requirements do not apply, such as booked hire or taxi services, therefore the proposed approaches in this discussion paper will not impact these services. However, people involved in providing these services may be able to provide valuable input about their experience.

How can I have my say?

We want to hear your feedback on this discussion paper.

Complete the online survey or email your written submission to us at regulatorysettings@tmr.qld.gov.au.

Considerations for Stakeholders

When providing feedback, you may wish to reflect on the following overarching considerations:

1. Do you think we have identified the right issues and impacts? If not, what else do we need to know?
2. What impact could these proposals have on you and/or your business, both positive and negative?
3. Do you support the approaches proposed in this discussion paper?

While this discussion paper has proposed an approach for each provision in the PT Standard, this is based on our current knowledge and is for discussion. Therefore, to assist in determining the best outcomes, we encourage responses to this discussion paper to include real life examples and reasons an approach may, or may not, work and how they may impact safety.

Accessibility statement

Contact us for available alternate accessible formats.

Please Email regulatorysettings@tmr.qld.gov.au.

What will happen next?

We will review all feedback received and consider it as part of our policy development. We may consult further with you and other affected stakeholders to better understand the issues and impacts.

We will use your feedback to inform policy development and it may be shared with the policy areas of the Heavy Vehicle National Regulator. If the information you provide is confidential, please tell us and we will ensure this information is not shared.

Chapter 1 – Introduction

The *Transport Operations (Passenger Transport) Standard 2010* (the PT Standard) is subordinate legislation¹ made under the *Transport Operations (Passenger Transport) Act 1994* (PT Act). The PT Standard imposes standards about the safe operation, design, maintenance, and management of public passenger vehicles and services on:

- operators of public passenger services for which operator accreditation is required, and
- drivers of certain public passenger vehicles.

The Department of Transport and Main Roads (TMR) is currently reviewing the PT Standard because:

- it is due to expire on 31 August 2024, under the *Statutory Instruments Act 1992*², and
- the proposed safety duty and safety management plan (SMP) provisions, recently introduced to the Parliament through the *Transport and Other Legislation Amendment Bill 2023* (Transport Bill), provide an opportunity to modernise the way TMR regulates the matters currently in the PT Standard.

The review of the PT Standard is part of a broader work program to modernise the regulatory framework for road-based public passenger services (other than light rail and volunteer associations). The proposed safety duty framework, in the Transport Bill, is intended to ensure that people involved in delivering road-based public passenger services identify hazards and manage risks specific to their operations. It will enable road-based public passenger service providers to take a proactive, tailored, and preventative approach to managing safety, scaled appropriately to the size and complexity of their business operations. Therefore, one of the goals of the review of the PT Standard is to consider the potential overlap between the proposed safety duties and the current matters in the PT Standard.

The intended outcomes for the future framework and the review of the PT Standard are to improve the safety of drivers, passengers, and the public while reducing prescriptive requirements. The future framework supports the safety objectives of passenger transport legislation and our 10-year plan for passenger transport.

1.1 Review of the matters in the PT Standard

The purpose of this discussion paper is to consult on how to best manage, for the future, matters currently contained in the PT Standard to ensure safety of services. It is likely the PT Standard will not be renewed, with public passenger service safety outcomes able to be achieved through the PT Act, the PT Regulation and other legislation.

TMR has reviewed each provision in the PT Standard to determine if it is still required, if it is effective and efficient, and whether any proposed changes are likely to have adverse impacts on stakeholders (for example, if allowing the provision to expire might lead to poor safety outcomes).

This discussion paper looks at each provision of the PT Standard and considers how the policy objectives of the provision can best be achieved. For most provisions, TMR is proposing they will either expire or transition to the PT Regulation (as determined by the safety risk profile of the issue). However, for some provisions, TMR does not yet have a proposed policy position and options are presented for stakeholders to provide information and feedback. This will assist TMR to reach a policy position on these matters.

Expire

Some of the provisions in the PT Standard will no longer be needed because they:

- will be effectively managed under the proposed safety duty and SMPs in the Transport Bills;

¹ Subordinate legislation (SL) is a law made by an entity other than Parliament under a framework established by the [Statutory Instruments Act 1992](#). The power to make the SL is delegated to the entity under an Act of the Parliament, for example the PT Act. SL must be tabled in Parliament where it can be disallowed by resolution.

² Under the Statutory Instruments Act 1992, the PT Standard will expire on 31 August 2024 (although it may be extended). The automatic expiry of subordinate legislation aims to ensure it is regularly reviewed and has continuing relevance to the economic, social, and general wellbeing of Queensland. Section 54 of the Statutory Instruments Act 1992 provides for subordinate legislation to expire.

- duplicate requirements found in other legislation; or
- are not related to safety.

Transition

Some matters in the PT Standard will not be effectively managed through the safety duty because TMR has identified that considering the risks involved, specific detail about the matter will still be needed to ensure safety. It is proposed that any prescriptive provisions that will be retained will transition to the *Transport Operations (Passenger Transport) Regulation 2018* (PT Regulation), or another regulation, and the PT Standard would be allowed to expire.

1.2 Proposed safety duties and SMPs

The PT Standard review is based on the assumption that the PT Act will be amended by the Transport Bill to introduce the safety duty based framework. This discussion paper is not seeking feedback about the proposed safety duties or SMP requirements. However, this paper provides some background information to explain the impact of the safety duty based framework on matters currently in the PT Standard.

In October 2022, TMR sought feedback about legislation changes to support *Creating Better Connections*, the 10-year plan for passenger transport in Queensland³. TMR has considered this feedback in developing a safety duty based framework for road-based public passenger services.

The safety duty based framework is a risk-based approach that aligns closely with requirements under the WHS Act and *Heavy Vehicle National Law (Queensland)* (HVNL Qld) meaning less duplication and red tape for industry and it reflects the general safety duty approach currently applying to personalised transport. The broad and flexible nature of the safety duty approach means that it can reduce the need for strict prescriptive provisions currently contained in the PT Standard and supports a more tailored approach to risk management.

With a focus on safety, the new framework includes provisions that:

- apply safety duty requirements to persons who are in a position to influence the safety aspects of road-based public passenger services;
- mean duty holders who are not drivers (such as operators) have an obligation to ensure the safety of their activities in providing services by eliminating risk as far as is reasonably practicable;
- mean duty holders who are drivers must take reasonable care of their own safety and that their activities in providing the service do not adversely affect the safety of others;
- require operators and booking service providers to have a SMP to manage the safety of their services; and
- apply a consistent regulatory approach to audits and directions to ensure TMR can monitor operator activities to ensure compliance.

Operators will also have duties to ensure, so far as is reasonably practicable, that they develop and maintain safe systems to identify and manage safety risks and promote safety and adherence to safety practices to all employees, contractors, drivers and other persons involved in providing the service.

Further, operators of road-based public passenger services and registered operators of vehicles providing those services will also have further duties to, as far as is reasonably practicable, ensure the safety of vehicles and equipment used to provide public passenger services including that they are in safe condition and maintained.

³ Discussion Paper on Legislation Changes to support Creating Better Connections - <https://www.publications.qld.gov.au/dataset/legislation-changes-to-support-creating-better-connections-for-queenslanders-discussion-paper/resource/c09f0c65-0538-494c-a963-3b9585331f7e>

Most service providers currently comply with their safety obligations under Queensland's Workplace Health and Safety laws and Heavy Vehicle National laws. As the future framework aligns with these safety laws, we do not anticipate that there will be significant impacts.

Stakeholders can expect communication and education about the future framework during 2024.

Information about the Transport Bill, including details about offences under the safety duty framework is available on the Queensland legislation website⁴ including:

- The Transport Bill
- Explanatory notes; and
- Human rights statement of compatibility.

Diagrams illustrating the future safety duties and compliance options and the future SMP requirements and offences can be found in chapter 3.

1.3 Compliance and enforcement

The future framework will rely on a range of mechanisms to promote compliance that may include:

- education;
- on-road enforcement;
- complaint and incident based investigations;
- audits to identify noncompliance with relevant transport legislation;
- directions to comply with relevant transport legislation;
- penalty infringement notices or prosecution for noncompliance with offence provisions;
- if a person holds an authorisation (for example, DA or OA), then administrative show cause actions to amend, suspend or cancel the person's authorisation; and
- if the services are provided through contracts or funding arrangements with the Queensland Government, then action may be taken through these arrangements.

Under the future framework, failing to comply with safety duties or SMP obligations, may be subject to a penalty under the new offence provisions in the PT Act (details can be found through the weblink in 1.2). Action may be taken under the safety duty and SMP offence provisions in the PT Act even if there is a more specific offence prescribed in the PT Regulation or elsewhere. Any offences proposed for the PT Regulation resulting from the PT Standard review, will not affect the obligation of a person to also comply with their safety duties and other PT Act requirements.

The detailed analysis of topics in chapter 2 includes more information regarding compliance and enforcement options for each topic. The topics in chapter 2 do not list all compliance and enforcement actions that may apply. For example, while not expressly included for each topic, enforcement options may include action under the relevant safety duty and safety management plan offences. The action taken will depend on the circumstances.

⁴ The Transport Bill on the Queensland Legislation website
<https://www.legislation.qld.gov.au/view/html/bill.first/bill-2023-019/lh#creationhistory>

Chapter 2 – Proposed approaches for the provisions of the PT Standard

This chapter includes the following information for each topic:

current state	describes how the provisions currently operates;
challenges	outlines any challenges that have been identified with the current provisions;
proposed approach	proposes an approach and the potential impact for how each topic will be dealt with in the future; and
considerations for stakeholders	asks questions about the requirement and the proposed approach.

2.1 Licence requirements

Current state

Sections 6 and 7 of the PT Standard aim to ensure that a person does not operate a relevant vehicle (or a public passenger vehicle under restricted DA) unless the person holds a prescribed licence of the appropriate class. For example, a person cannot drive a relevant vehicle that is a 10-tonne bus with more than 2 axles, but only hold a licence for a C (car) class vehicle and cannot drive a relevant vehicle while they have been disqualified from holding a licence or their licence is expired or suspended.

If a person has not complied with the licence requirements, they may be subject to administrative show cause action to amend, suspend or cancel their DA, or a direction to comply under section 100 of the PT Act (section 100 notice).

At the same time, a penalty may also apply under section 78 of the *Transport Operations (Road Use Management) Act 1995* (TORUM), which provides that a person must not drive a motor vehicle on a road unless the person holds a driver licence authorising the person to drive the vehicle on the road.

Challenges

The driver licence requirements in the PT Standard, in effect, duplicate the requirements in TORUM because they are regulating the same behaviour.

If the licence requirements, in the PT Standard, were allowed to expire, section 40 of the PT Regulation still provides that the chief executive can take action against a person's DA (including a person's restricted DA) when they consider it necessary in the public interest, having regard to the purpose of driver authorisation, or if the chief executive considers the person is unsuitable to hold driver authorisation having regard to the person's driving history.

In addition, under section 50 of the PT Regulation, if a person holds DA and their driver licence is suspended or cancelled, their DA is also suspended or cancelled.

Proposed approach

It is proposed to allow the licence requirements under sections 6 and 7 of the PT Standard to **expire**. Under this approach, if a driver does not comply with the licence requirements under TORUM, enforcement action will be available, for example:

- a penalty for an offence against the driver under TORUM; and/or
- potential show cause action against the person's DA under the PT Regulation.

Considerations for Stakeholders

4. Do you support the proposed approach to allow the licence requirements in sections 6 and 7 of the PT Standard to expire because the offence already exists in TORUM? Why/why not?

2.2 Alcohol and drugs

Current state

Section 9 of the PT Standard aims to ensure that the driver of a relevant vehicle has a blood alcohol concentration of zero and is not under the influence of drugs while operating the vehicle. If a person fails to comply with the alcohol/drug limits in the PT Standard, they may be subject to administrative show cause action against their DA, or a section 100 notice.

At the same time, section 79 of TORUM also provides that driving a vehicle (that is available to be used, about to be used or being used to provide a public passenger service), with a blood alcohol concentration above zero is committing an offence under TORUM. Section 79 of TORUM also includes an offence for any person to drive, attempt to drive, or be in charge of a motor vehicle while under the influence of liquor or a drug. Failure to comply with section 79 TORUM can result in a penalty including disqualification of the person's driver licence and a fine or, for serious cases, imprisonment.

Challenges

There is an expectation that a person driving a vehicle and providing a public passenger service should be subject to higher standards than a person driving a vehicle for private purposes.

However, the drug and alcohol provisions in the PT Standard and TORUM are effectively regulating the same behaviour. For example, if a DA holder is convicted of a mid-range (blood alcohol content (BAC) between 0.10 and 0.15) drink driving offence, the person may be subject to:

- a penalty for an offence under section 79 of TORUM and a disqualification period of 3-9 months (depending on the severity of the offence) of their driver licence; and
- the automatic cancellation of the DA under section 50 of the PT Regulation due to the person no longer holding a driver licence.

If the alcohol and drug requirements, in the PT Standard were allowed to expire, section 40 of the PT Regulation still provides that the chief executive can take administrative show cause action against the person's DA on the grounds that the chief executive considers the person unsuitable to hold DA having regard to the person's driving history, they no longer hold the appropriate licence, or if the chief executive considers it necessary in the public interest.

In addition, under section 50 of the PT Regulation, if a person holds DA and their driver licence is suspended or cancelled, their DA is also suspended or cancelled.

Proposed approach

It is proposed to allow section 9 of the PT Standard to **expire**. Under this approach, if a driver does not comply with the drug and alcohol requirements under TORUM, examples of enforcement action available include:

- a penalty for an offence against the driver under TORUM;
- potential show cause action against a person's DA under the PT Regulation.

Considerations for Stakeholders

5. Do you support the proposed approach to allow the alcohol and drug requirements in section 9 of the PT Standard to expire because the offence already exists in TORUM? Why/why not?

2.3 Fatigue management

Current state

Section 10 of the PT Standard aims to ensure that a driver of a relevant vehicle does not operate the vehicle if the driver's fatigue level may endanger passenger safety. The driver of a fatigue-regulated

heavy vehicle complies with this requirement if they are complying with the requirements about fatigue management applying to the driver under the HVNL Qld.

Section 21 of the PT Standard also provides that an operator of a relevant service must take reasonable steps to ensure that each driver of a vehicle providing the service complies with their fatigue requirements (under section 10 of the PT Standard).

Failure to comply with the PT Standard can result in administrative show cause action against the person's DA or OA, or a section 100 notice.

At the same time, section 83 of TORUM provides that a person driving a vehicle carelessly, including without due care and attention, is committing an offence under TORUM. This is applicable to fatigued driving.

Challenges

Different fatigue requirements currently apply to different industries. Drivers of fatigue-regulated heavy vehicles (for example buses over 4.5 tonnes gross vehicle mass) are required to comply with the rigorous fatigue provisions in the HVNL Qld. It is understood that the bulk of the bus industry works under standard hours (prescribed maximum work and minimum rest hours).

However, not all relevant vehicles currently subject to the requirements under section 10 and 21 of the PT Standard are fatigue-regulated heavy vehicles.

In 2017, the PT Standard was amended so that it no longer applied to operators or drivers of vehicles used to provide taxi services or booked hire services. When this happened, section 91B was inserted into the PT Act to include a specific duty relating to fatigue so that:

- a person must not drive a motor vehicle being used to provide a taxi service or booked hire service while the person's ability to drive the motor vehicle safely is impaired by fatigue; and
- a person in the chain of responsibility for a taxi service or booked hire service must take all reasonable steps to ensure another person does not drive a motor vehicle to provide the service while the other person's ability to drive the motor vehicle safely is impaired by fatigue.

However, it is proposed that as part of the larger safety duty changes, section 91B will be omitted and these requirements will be effectively managed under the proposed general safety duties for road-based public passenger services.

The PT Regulation was also amended in 2017 to prescribe requirements for the monitoring, recording and reporting of particular information relevant to managing the fatigue of drivers of taxi or booked hire services. These prescribed requirements will be retained in the PT Regulation.

Proposed approach

It is proposed to allow section 10 and 21 of the PT Standard to **expire** (except for fatigue information management requirements for operators). It is considered that generally fatigue would be effectively managed under other existing legislation (such as the careless driving offence) and the proposed safety duties. Further examples of enforcement action for noncompliance include:

- drivers of fatigue-regulated heavy vehicles will continue to be required to comply with the HVNL fatigue management requirements,
- potential show cause action against a person's OA or DA.

In addition, it is proposed that operators of all relevant services will be required to comply with the fatigue information management requirements that currently only apply to authorised booking entities, and to operators of taxi services and booked hire services provided using a taxi (see sections 101 and 102 of the PT Regulation). The fatigue record keeping requirements are considered generally within what information needs to be kept under section 226 of the PT Regulation.

Considerations for Stakeholders

6. Do you support the proposed approach to allow the fatigue management requirements, in sections 10 and 21 of the PT Standard, to expire and for fatigue to be managed under the proposed safety duty? Why/why not?
7. Do you support extending the fatigue information management requirements in section 101 and 102 of the PT Regulation to all operators? Why/Why not?

2.4 Operational safety of vehicles - general

Current state

Sections 11(1) and 22(1) of the PT Standard aim to ensure that:

- the driver of a relevant vehicle must operate the vehicle safely; and
- the operator of a relevant service must take reasonable steps to ensure that a relevant vehicle providing a service is safely operated.

Failure to comply with the PT Standard can result in administrative show cause action against the person's DA or OA, or a section 100 notice.

Challenges

The intention of sections 11(1) and 22(1) of the PT Standard is to impose broad overarching safety requirements. These are not prescriptive requirements and instead are similar to a safety duty.

Therefore, if the PT Act is amended to provide for a safety duty to apply to road-based public passenger services, the safety requirements in the PT Standard would be a duplication.

Proposed approach

It is proposed to allow sections 11(1) and 22(1) of the PT Standard to **expire** because they would be effectively managed under the proposed new safety duties in the PT Act and may be subject to potential show cause action against the person's OA and DA.

Considerations for Stakeholders

8. Do you support the proposed approach to allow sections 11(1) and 22(1) of the PT Standard to expire and for the general operational safety of vehicles requirements to be managed under the proposed new safety duty? Why/why not?

2.5 Overloading

Current state

Sections 11(2)(a), 11(2)(d)(i), 22(2)(a) and 22(2)(d)(i) of the PT Standard include obligations for the driver of a relevant vehicle and the operator of a relevant service to ensure that the vehicle is not overloaded. Under the PT Standard, a vehicle is overloaded if it is carrying more than the maximum number of passengers for which the vehicle has been designed or recommended by the manufacturer, carrying more passengers in the standing area than the full complement, or is not complying with the mass requirements for heavy vehicles under the HVNL Qld or light vehicles under the Vehicle Standards and Safety Regulation.

A failure to comply with the overloading provisions of the PT Standard can result in administrative show cause action against the person's DA or OA, or the issuing of a section 100 notice.

In addition, heavy vehicles are subject to penalties for mass offences under the HVNL Qld and light vehicles may be subject to penalties for offences under the mass requirements in the Vehicle Standards and Safety Regulation. Failure to comply with the HVNL Qld or the Vehicle Standards and Safety Regulation may result in an infringement notice or court ordered penalty.

Further, section 76 of the *Traffic Regulation 1962* (Traffic Regulation) provides that a person must not drive a vehicle on a road if the number of persons in the vehicle is more than the maximum number of persons that the vehicle is:

- capable of carrying under a registration certificate or application for registration;
- licensed, authorised or permitted to carry by or under a law; or
- reasonably capable of carrying (considering the design capacity of the vehicle).

However, the Traffic Regulation offence only applies to the driver of a vehicle that is overloaded and would not apply to the operator of a service.

Challenges

Overloaded vehicles create obvious and significant safety risks to road users, both in terms of the safety of passengers within the public passenger vehicle and in terms of vehicle control and stability. Overloading a vehicle above manufacturer's specifications can cause strain on the vehicle's components beyond their design parameters.

Compliance and enforcement activities for overloading provide some challenges because of the inconvenience to passengers of intercepting and weighing potentially overloaded vehicles. In addition, it requires the compliance officers to have knowledge of the vehicle specifications and the manufacturer recommendations about passenger capacity and standing area limits for each vehicle.

While the HVNL Qld and Vehicle Standards and Safety Regulation provide for maximum mass limits, they do not regulate passenger capacity or standing passenger numbers.

If a person breaches the Traffic Regulation, HVNL Qld or Vehicle Standards and Safety Regulation, in addition to any penalty under those provisions, the chief executive could potentially take action against a person's OA if it is considered that the operators' actions adversely affected the high-quality operation of public passenger service, or against a person's DA with regard to the public interest.

Proposed approach

It is proposed to allow the overloading provisions to **expire** as the intent will be effectively managed under existing legislation and the proposed safety duty. Examples of the existing provisions that will apply include:

- for mass – the HVNL Qld (for heavy vehicles) or the Vehicle Standards and Safety Regulation (for light vehicles) regulatory schemes;
- for passenger capacity - the *Traffic Regulation 1962* (will only apply to drivers and not the operators of the service);
- potential show cause action against the person's OA or DA.

Considerations for Stakeholders

9. Do you support allowing the overloading provisions to expire and for the overloading and passenger capacity of vehicles to be managed under existing legislation and the proposed new safety duty? Why/why not?

2.6 Standing passengers for certain services

Current state

Sections 11(2)(b) and 22(2)(b) of the PT Standard place an obligation on the driver and the operator to ensure that a relevant vehicle providing a long-distance scheduled passenger services or tourist service, does not carry standing passengers. These obligations were introduced to protect passengers from unnecessary risks.

Sections 11(2)(c)(i), 11(2)(d)(ii), 22(2)(c)(i) and 22(2)(d)(ii) of the PT Standard aim to ensure that a person is not standing on a bus unless it is specifically designed to carry standing passengers.

Failure to comply with the standing passenger provisions in the PT Standard can result in show cause action against the person's DA or OA or giving the person a direction under section 100 of the PT Act.

Challenges

In high-risk situations, research has shown that standing passengers are more susceptible to injury than seated passengers in the event of sudden deceleration or acceleration of a vehicle. Long-distance services travel at higher speeds for longer periods, which exposes passengers to high risk factors.

However, for long-distance coaches, vehicle specifications already prevent these services from carrying standing passengers, making the current restrictions imposed on long-distance services redundant in these circumstances.

Tourist services are different because there may be specific risks that are unique to some tourist services. For example, some tourist services operate off-road or may operate in a dangerous environment such as narrow winding roads. However, not all tourist services face the same risks and some tourist services could be provided in a bus designed for standing passengers, therefore, there may be some tourist services that could safely carry standing passengers particularly where the distances travelled are minimal.

Proposed approach

In relation to no standing passengers in long distance scheduled passenger services and tourist services, it is proposed to allow sections 11(2)(b) and 22(2)(b) of the PT Standard to **expire** because these overarching safety requirements can be effectively managed under the proposed new safety duties. The safety duty approach provides more flexibility in managing safety for the different types of services, operating in different environments using different types of vehicles.

However, in relation to ensuring standing is only permitted on a bus designed to carry standing passengers, it is proposed that the intent of sections 11(2)(c)(i), 11(2)(d)(ii), 22(2)(c)(i) and 22(2)(d)(ii) of the PT Standard be retained and **transition** to the PT Regulation. While a new offence is not proposed, transitioning the requirement to the PT Regulation will mean a clearer link for directions to comply or show cause action.

Considerations for Stakeholders

10. Do you support retaining the requirement that standing passengers are not permitted on a bus unless it is specifically designed to carry standing passengers, and transitioning the requirement to the PT Regulation? Why/why not?
11. Do you consider it appropriate that, in addition to restricting standing passengers on buses not designed for standing passengers, the specific risks relating to long distance scheduled passenger services can be managed under the proposed new safety duty obligation? Why/why not?
12. Do you consider it appropriate that, in addition to restricting standing passengers on buses not designed for standing passengers, the specific risks relating to tourist services can be managed under the proposed new safety duty obligation? Why/why not?
13. Are there any types of services, where the risk of standing passengers would not be adequately effectively managed by the proposed new safety duty obligation?

2.7 No standing passenger road

Current state

Sections 11(2)(c)(ii), 11(2)(d)(iii), 22(2)(c)(ii), 22(2)(d)(iii), and schedule 1, part 5 of the PT Standard include obligations to ensure that passengers are not standing while the vehicle is travelling on a no standing passenger road.

No standing passenger roads (also known as E3 or notified roads) are roads that are considered too steep for buses to safely travel carrying standing passengers. These roads have been identified by the length and gradient of the slope under TMR's *Guide to the Assessment of Environment 3 (E3) Roads in Queensland*.

A no standing passenger road is a road on which a relevant vehicle that is a bus must not carry standing passengers⁵. The requirement also applies to a bus carrying school students on a general route service or a school service that is on a journey that includes a journey to or from school.

Failure to comply with the no standing passenger road provisions in the PT Standard can result in show cause action against the person's DA or OA or giving the person a section 100 notice.

⁵ <https://www.tmr.qld.gov.au/Travel-and-transport/School-transport/Assistance-schemes/School-Bus-Upgrade-Scheme/Notified-roads>

Challenges

The risk profile for a standing passenger when a vehicle is travelling on a no standing passenger road is likely to be significantly greater than when seated.

Proposed approach

It is proposed to retain and **transition** the intent of the no standing passenger road provisions to the PT Regulation. This will address the specific safety risks and ensure that operators and drivers continue to comply with requirements similar to those included in sections 11(2)(c)(ii), 11(2)(d)(iii), 22(2)(c)(ii), 22(2)(d)(iii), and schedule 1, part 5 of the PT Standard.

It is proposed that, under the PT Regulation, if the driver or the operator do not comply with their requirements, they may be subject to:

- potential show cause action against the person's OA or DA;
- an offence in the PT Regulation with a monetary penalty in the vicinity of:
 - if an infringement notice is issued – 2 to 4 pu (\$309 to \$619 in 2023-24);
 - if the matter proceeds to court – up to a maximum of 20 pu (\$3,096 in 2023-24) to be determined by the court based on the circumstances of the matter. This maximum penalty is aligned with seatbelt offences in part 16 of the Queensland Road Rules.

Considerations for Stakeholders

14. Do you support transitioning the no standing passenger road provisions to the PT Regulation? Why/why not?
15. Are the proposed penalty amounts considered appropriate for the risk associated with committing the offence?

2.8 Standing passengers in a school bus for more than 20km

Current state

Sections 11(2)(d)(iv) and 22(2)(d)(iv) of the PT Standard aim to ensure that a passenger on a school bus does not stand for more than 20km.

Failure to comply with the standing passengers in a school bus provisions in the PT Standard can result in show cause action against the person's DA or OA or giving the person a section 100 notice.

Challenges

The risk profile for a standing passenger is greater than the risk profile for seated passengers. Largely the risk of standing on a bus is addressed through the requirements that the bus not be overloaded, the bus be designed for standing passengers, and that passengers are not standing when the bus is travelling on a no standing passenger road.

The additional requirement that a passenger not stand for more than 20km on a school bus was initially introduced to improve comfort of passengers travelling on longer distance school services. However, this requirement may also increase safety, for example, a student might become fatigued and start leaning against the seats or poles on the bus instead of holding onto the handholds.

It should be noted that this provision currently only applies to passengers on a school bus and not to other relevant vehicles, which would also be carrying children and other vulnerable persons. It has also been identified that it can be difficult to enforce this provision.

The safety duty approach provides flexibility for managing safety risk for the different types of services, operating in different environments using different types of vehicles and should result in providers of the service identifying and managing the risks related to standing passengers specific to their service, including ensuring that specific risks to children and vulnerable passengers on vehicles other than school buses are considered.

Proposed approach

TMR is seeking community and industry feedback on the following identified options:

Option 1: Allow the sections 11(2)(d)(iv) and 22(2)(d)(iv) to **expire**

This option would provide that sections 11(2)(d)(iv) and 22(2)(d)(iv) of the PT Standard would be allowed to expire and any risk would be addressed under the safety duty provisions. Where there is a breach of a safety duty, the person may be subject to a penalty under the relevant safety duty offence provision, and the person may be subject to show cause action against their OA or DA.

Option 2: Retain and **transition** to the PT Regulation.

This option would see the intent of sections 11(2)(d)(iv) and 22(2)(d)(iv) of the PT Standard transition to the PT Regulation and would ensure that a passenger on a school bus does not stand for more than 20km. The PT Regulation would also be amended to allow the chief executive to take action if the requirement was not complied with including a fine in the vicinity of:

- if an infringement notice is issued – 2 to 4 pu (\$309 to \$619 in 2023-24);
- if the matter proceeds to court – up to a maximum of 20 pu (\$3,096 in 2023-24) to be determined by the court based on the circumstances of the matter. This maximum penalty is aligned with seatbelt offences in part 16 of the Queensland Road Rules.

This approach would ensure there is no reduction in the current level of safety, and clear and targeted enforcement action will be able to be taken if there is a breach. However, it may not explicitly address situations where there is a similar risk for a passenger who is not on a school bus.

Considerations for Stakeholders

16. Do you support option 1, allowing sections 11(2)(d)(iv) and 22(2)(d)(iv) of the PT Standard to expire and for the distance that a passenger can be standing be managed under the proposed new safety duty? Why/why not?
17. Do you support option 2, which would retain sections 11(2)(d)(iv) and 22(2)(d)(iv) of the PT Standard and transition them to the PT Regulation? Why/why not?
18. Are these penalty amounts (for option 2) considered appropriate for the risk associated with committing the offence?

2.9 Standing passengers for buses fitted with seatbelts

Current state

Sections 11(3), 11(4), 22(3) and 22(4) of the PT Standard aim to ensure that, where a bus is fitted with seatbelts, seats must be used before passengers are allowed to stand. If a person has to stand because all the seats are full, the bus driver must give the operator the date and time the passenger boarded the bus and the number of people who boarded the bus at the same time as the standing passenger. If the operator routinely gets information about standing passengers, the operator must develop a written plan to minimise the occasions on which standing passengers are carried and follow the plan.

Failure to comply with the standing passengers for buses fitted with seatbelts provisions in the PT Standard can result in show cause action against the person's DA or OA, or giving the person a section 100 notice.

Challenges

The current provisions are designed to ensure seats with seatbelts are occupied before any passengers are able to stand. This acknowledges that there can also be safety benefits in allowing a person to be picked-up when all seat-belted seats are being used. It is also noted that some environments may allow passenger services to operate safely without requiring all passengers to use seat-belts.

Proposed approach

It is proposed to retain the intent of sections 11(3), 11(4) and 22(3) of the PT Standard and **transition** it to the PT Regulation. Retaining the requirement would continue to make it clear for drivers and operators that when a bus is fitted with seatbelts, all seats must be used before passengers are allowed to stand. Examples of action for noncompliance include:

- potential show cause action against the person's OA or DA, and
- an offence in the PT Regulation with a monetary penalty in the vicinity of:
 - if an infringement notice is issued – 2 to 4 pu (\$309 to \$619 in 2023-24)
 - if the matter proceeds to court – up to a maximum of 20 pu (\$3,096 in 2023-24) to be determined by the court based on the circumstances of the matter. This maximum penalty is aligned with seatbelt offences in part 16 of the Queensland Road Rules.

This approach would ensure there is no reduction in the current level of safety, and clear and explicit enforcement action will be able to be taken if there is a breach.

The intent of section 22(4) of the PT Standard is that operators have, and follow, a plan to minimise the occasions on which permitted standing passengers are carried on a bus fitted with seatbelts. The intent of section 22(4) of the PT Standard will become part of the SMP obligations and so is able to **expire**. Operators will need to have, and follow, a SMP to minimise the occasions on which permitted standing passengers are carried on a bus fitted with seatbelts.

Considerations for Stakeholders

19. Do you support retaining the intent of current sections 11(3), 11(4), and 22(3) of the PT Standard and transitioning them to the PT Regulation? Why/why not?
20. Do you have any concerns with section 22(4) of the PT Standard becoming part of the SMP obligations? Why/why not?
21. Are these penalty amounts considered appropriate for the risk associated with committing the offence?

2.10 3 for 2 seating

Current state

Sections 12 and 26 of the PT Standard restrict seated passengers to one passenger per adult seat. However, there are allowable exemptions, including allowing infant passengers to occupy the same seat as another passenger and allowing three primary and pre-school students to sit on a seat designed for two adults in certain circumstances (referred to as 3 for 2 seating).

Failure to comply with the 3 for 2 seating provisions in the PT Standard can result in show cause action against the person's DA or OA or giving the person a section 100 notice.

Challenges

3 for 2 seating originated from a time when school buses were fitted with non-seat belted bench seats that easily accommodated three primary school students.⁶

The 3 for 2 seating configuration is a widely accepted practice across most of Australia, however some jurisdictions place restrictions on 3 for 2 seating based on the age of the passenger. In one jurisdiction it has also been applied to a child weighing no more than 38 kilograms.

It has been identified that providing an age restriction (as opposed to a pre-school and primary school restriction) would provide greater consistency in how the provision was applied.

Proposed approach

It is proposed that the intent of sections 12 and 26 of the PT Standard be retained and **transition** to the PT Regulation. The proposed approach would support the operational safety of vehicles by restricting

⁶ It should also be noted that 3 for 2 seating may be more expensive, bigger and bulkier and may reduce aisle width and create additional maintenance.

seated passengers to one passenger per adult seat and outlining allowable exemptions to this requirement. It is also proposed to adjust the requirement slightly so 3 for 2 seating will apply to children under 12 (rather than specifying pre-school and primary school children).

This would place a requirement on the driver and operator to ensure the vehicle is not overloaded in terms of the overall number of seated passengers, while allowing for infant passengers and 3 for 2 seating in certain circumstances for children under 12.

Examples of action that may be taken for failure to comply include:

- potential show cause action against the person's OA or DA;
- an offence in the PT Regulation with a monetary penalty in the vicinity of:
 - if an infringement notice is issued – 2 to 4 pu (\$309 to \$619 in 2023-24);
 - if the matter proceeds to court – up to a maximum of 20 pu (\$3,096 in 2023-24) to be determined by the court based on the circumstances of the matter. This maximum penalty is aligned with seatbelt offences in Part 16 of the Queensland Road Rules.

Considerations for Stakeholders

22. Do you support the proposed approach to allow sections 12 and 26 of the PT Standard to transition to the PT Regulation? Why/why not?
23. Do you think it will be more difficult to comply with the requirements if they relate to children aged under 12 years old, or if they relate to primary and pre-school aged children?
24. Do you think there is a more appropriate way to determine who should use 3 for 2 seating?
25. Are these penalty amounts considered appropriate for the risk associated with committing the offence?

2.11 Customer service

Current state

Sections 13(2), 13(3) of the PT Standard aim to ensure that a driver of a relevant vehicle used to provide a public passenger service is courteous to passengers and that the service runs according to the timetable. Section 31 of the PT Standard places an obligation on the operator of a scheduled passenger service to ensure that their drivers are competent in providing customer service and are aware of the timetables and routes for the services.

Failure to comply with customer service provisions in the PT Standard can result in show cause action against the person's DA or OA or giving the person a section 100 notice.

Challenges

The purpose of sections 13 and 31 is to ensure the minimum quality of customer service and customer convenience, including that services are operated according to a timetable. There have been cases where a driver's lack of courtesy may also impact customer safety. For example, there has been a situation where a customer was afraid to enter a vehicle because of a driver's behaviour and instead decided to wait for another vehicle, even though they were waiting alone late at night.

However, there can be some difficulties enforcing these provisions. For example, what is 'reasonably courteous' is subjective and if there are no corroborating witnesses, it may be difficult for TMR to gather sufficient evidence to support action against the driver.

If these sections expire:

- TMR could continue to include these requirements as minimum service levels for holders of service contracts or other State funding agreements to ensure customer service standards are maintained; and
- commercial operators may still have a financial incentive to deliver at least the minimum customer service standard to avoid reduced demand for their services.

There may be a risk that the removal of customer service requirements may lead to a reduction in the standard of services. Although, it is also questioned whether government should regulate customer service in relation to services that are not contracted or funded services.

Proposed approach

Due to the unknown level of risk related to the customer service requirements, TMR is seeking community and industry feedback on the following identified options:

Option 1: Allow the provisions to **expire**

This option proposes to let sections 13(2), 13(3) and 31 of the PT Standard expire because customer service requirements, for non-contracted services, could be managed by the operator and not regulated by the Government. However, any safety risks that arise from customer service should be addressed by the proposed safety duties for drivers and operators.

This option would allow the State to continue to regulate customer service requirements for services that are provided for, or funded by, the State under contract arrangements. There are other tools which influence the quality of customer service provided by a driver, for example, the Code of Conduct for school services.

In addition, depending on the driver's behaviour, the chief executive could still take show cause action against the driver's DA in consideration of the public interest.

Option 2: Retain the prescriptive requirements and **transition** to the PT Regulation

This option would see the intent of sections 13(2), 13(3) and 31 of the PT Standard being retained and transition to the PT Regulation.

This option would continue to explicitly require a driver of a relevant vehicle to be courteous to passengers, that the service runs according to the timetable and that the operator of a scheduled passenger service ensures that their drivers are competent in providing customer service and are aware of the timetables and routes for the services. While a new offence is not proposed, transitioning the requirement to the PT Regulation would mean a clearer link with directions to comply or show cause action.

Considerations for Stakeholders

26. Do you support option 1, and allowing sections 13(2), 13(3) and 31 of the PT Standard to expire? Why/why not?
27. Do you support option 2, and retaining and transitioning sections 13(2), 13(3) and 31 of the PT Standard to the PT Regulation? Why/why not?

2.12 Compliance with TORUM

Current state

Section 14 of the PT Standard aims to ensure a driver of a relevant vehicle complies with all relevant provisions of TORUM about the vehicle, the driving of the vehicle and being in charge of the vehicle. The purposes of TORUM includes providing for the effective and efficient management of vehicles used in a public place, this includes the establishment of performance standards for vehicles, drivers and road users and the establishment of rules for on-road behaviour.

Failure to comply with this provision in the PT Standard can result in show cause action against the person's DA or giving the person a section 100 notice.

Challenges

This section of the PT Standard duplicates TORUM requirements. TORUM and its regulations include provisions that relate to the general standard of vehicles and the driving, use or operation of vehicles, for example:

- the Queensland Road Rules provides for rules for vehicles and road users on roads and road-related areas, for example speeding, seatbelts, and use of mobile phones;
- the Vehicle Standards and Safety Regulation manages the risks associated with defective light vehicles (including from gaseous and noise emissions) and unsafe loading of light vehicles; and
- the *Transport Operations (Road Use Management – Driver Licensing) Regulation 2010* provides for driver competency, fitness to drive and licence sanctions.

These are all matters the chief executive could currently take into account for show cause action against a person's DA having regard to the person's driving history or if it is considered necessary in the public interest.

Proposed approach

It is proposed to allow section 14 of the PT Standard to **expire**. Under this approach, if a driver does not comply with the relevant provisions of TORUM enforcement action would be available, for example:

- action could be taken against the driver under TORUM; and
- potential show cause action against a person's DA.

Considerations for Stakeholders

28. Do you support allowing section 14 of the PT Standard expire? Why/why not?

2.13 Compliance with the HVNL Qld

Current state

Section 14A of the PT Standard aims to ensure a driver of a relevant vehicle, that is also a heavy vehicle, complies with all provisions of the HVNL Qld. Under the HVNL Qld, a heavy vehicle is a vehicle that has a gross vehicle mass of more than 4.5 tonne (section 6 of the HVNL Qld) and includes passenger buses.

Failure to comply with this provision of the PT Standard can result in show cause action against the person's DA, or the person being given a section 100 notice.

Challenges

This section of the PT Standard duplicates the HVNL Qld requirements. One of the purposes of the HVNL Qld is to establish a national scheme for facilitating and regulating the use of heavy vehicles in a way that promotes public safety.

If section 14A of the PT Standard were allowed to expire, action for noncompliance with the HVNL Qld would continue to be taken under the HVNL Qld. In addition, the chief executive may still take action to suspend, cancel or amend a person's DA having regard to the person's driving history or in the public interest having regard to the purpose of DA as stated in section 23 of the PT Act.

Proposed approach

It is proposed to allow section 14A of the PT Standard to **expire**. Under this approach, if a driver does not comply with relevant provisions of HVNL Qld enforcement action would be available, for example:

- action could be taken against the driver under the HVNL Qld; and
- potential show cause action could be taken against a person's DA.

Considerations for Stakeholders

29. Do you support allowing section 14A of the PT Standard to expire? Why/why not?

2.14 Compliance with the Code of Conduct

Current state

Section 272 of the PT Regulation provides that the chief executive may approve a Code of Conduct about school students travelling on public passenger vehicles. Sections 15 and 42 of the PT Standard aim to provide that if a school child is travelling on a relevant bus or a bus providing a relevant service, the driver of the bus and operator of the service must comply with the Code of Conduct⁷.

⁷ The Code of Conduct for School Students Travelling on Buses - <https://translink.com.au/travel-with-us/school-travel/school-travel-info/code-of-conduct>

The Code of Conduct applies to all primary, middle and secondary (State and non-State) school students in Queensland who use buses to travel to and from school, or for other school-related activities such as school sports, excursions and camps.

Failure of the operator or driver to comply with the Code of Conduct can result in show cause action against the person's DA or OA, or the person being given a section 100 notice.

Note: the purpose of this discussion is not about the intent of the Code of Conduct, it relates to the application of the Code of Conduct under the PT Standard.

Challenges

Ensuring a clear framework for managing the behaviour of students on public passenger vehicles is important for safety. The Code of Conduct was developed to reflect that drivers of public passenger vehicles have an important responsibility in relation to school students travelling on public passenger vehicles. In addition, operators have a responsibility to ensure students and drivers travel in a safe environment and ensure drivers are appropriately trained in managing the behaviour of students.

The Code of Conduct includes:

- guidance on the rights and responsibilities of all stakeholders (students, parents/carers, schools, drivers, operators, conveyance committees, and TMR);
- guidance on the categories of misconduct (irresponsible, unsafe, dangerous/destructive and life-threatening behaviours);
- procedures for drivers and operators in responding to misconduct, including the application of natural justice principles when determining consequences for breaches; and
- a review process if a parent or student is dissatisfied with the decided outcome.

Proposed approach

It is proposed that sections 15 and 42 of the PT Standard will be retained and **transition** to the PT Regulation. This will ensure a clear framework for managing the behaviour of students on public passenger vehicles, which benefits all stakeholders.

If a driver or an operator does not comply with the Code of Conduct, the PT Regulation will provide for the following action:

- potential show cause action against the person's OA or DA;
- an offence in the PT Regulation with a monetary penalty in the vicinity of:
 - if an infringement notice is issued - 2 to 4 pu (\$309 to \$619 in 2023-24);
 - if the matter proceeds to court - up to a maximum of 20 pu (\$3,096 in 2023-24) to be determined by the court based on the circumstances of the matter. This maximum penalty is aligned with risk management requirements under sections 171 and 172 of the *Working with Children (Risk Management and Screening) Act 2000*.

Considerations for Stakeholders

30. Do you support transitioning sections 15 and 42 of the PT Standard to the PT Regulation, to continue to ensure that there is a clear framework for managing the behaviour of students on public passenger vehicles? Why/why not?

31. Are these penalty amounts considered appropriate for the risk associated with committing the offence?

2.15 Activating auxiliary brakes

Current state

Section 16, and schedule 1, sections 28(2)(b), 28(4), 29(1)(c) and 29(3) of the PT Standard aim to ensure buses are fitted with appropriate brakes, and drivers use the brakes when descending a no standing passenger road. This is done by requiring the driver of a bus to activate the exhaust brake fitted to the bus (if a light bus) or the power-train retarder (if a heavy bus) when they are descending a no standing passenger road while carrying school students on a general route or school service under a service contract, integrated mass transit service contract or prescribed school service contract.

Failure to comply with the auxiliary brake provisions of the PT Standard can result in show cause action against the person's DA or OA, or the person being given a section 100 notice.

Challenges

In the event of an accident on a no standing passenger road, there is a higher risk of injury to the driver and passengers on the bus. However, the auxiliary brakes provisions in section 16 and schedule 1 sections 28(2)(b), 28(4), 29(1)(c) and 29(3) of the PT Standard **only** apply to buses carrying school children on a general route service or school service under a contract with TMR. These provisions were a result of risk-based approaches, and recommendations from the Queensland School Transport Safety Taskforce in 2002.

By comparison, charter bus services that may be employed by schools for excursions other than the journey to and from school are not required to comply with the auxiliary brake provisions, even if they are travelling on no standing passenger roads.

It has also been identified that being overly prescriptive over the type of brake, may limit the use of vehicles with different or emerging vehicle technology that could still provide safe outcomes, for example, future electric vehicles may not have a power train, and therefore, may not be able to meet the requirement to be fitted with a power-train retarder. In addition, there are some heavy buses that may use multiple braking systems which are more advanced than auxiliary brakes and some that are only fitted with exhaust brakes, not a power-train retarder, and therefore cannot comply with the auxiliary braking requirement on a no standing passenger road.

In respect of the use of, and training in, auxiliary brakes, it is also difficult for compliance officers to determine whether the brake was applied during a particular journey, and whether any training for drivers was effective.

Proposed approach

It is proposed that the auxiliary brake provisions in section 16, schedule 1, sections 28(2)(b) and 28(4), and schedule 1, sections 29(1)(c) and 29(3) will be effectively managed by the proposed safety duties and so can **expire**.

Considerations for Stakeholders

32. Do you support the auxiliary brake provisions being allowed to expire and instead be effectively managed under the proposed safety duty? Why/why not?

2.16 Training of operators

Current state

Section 19 of the PT Standard allows the chief executive to impose training requirements, specified by the chief executive, on applicants for the issue or renewal of OA. In addition, the chief executive may accept another qualification if the chief executive considers the qualification equivalent to, or better than, the training under the training course specified by the chief executive.

Failure to comply with the training provisions of the PT Standard can result in show cause action against the person's OA, or the person being given a section 100 notice.

Challenges

OA training was introduced to assist operators in meeting the purpose of OA which is to encourage the high-quality operation of public passenger services. This is done by raising standards and awareness of operators in the areas of safety, service delivery and business acumen, and ensuring public passenger service operators are held accountable for complying with appropriate standards.

For example, since 2005, to fulfil the training requirement for the issue of full OA, there are two options accepted by TMR:

- a certificate of completion of the TMR approved workbook; or
- an equivalent qualification recognised by TMR (IE. Statement of attainment issued by a Registered Training Organisation for specified competencies from the Transport and Logistics Training Package, a Certificate of Transport Management or equivalent university qualification).

Proposed approach

It is proposed that section 19 be retained and **transition** to the PT Regulation to include an ability for the chief executive to impose training requirements.

The intention is that the provision will only operate if the chief executive imposes OA training.

Training of operators is also an application requirement for OA. Therefore, if training requirements are not met, an application for OA, or for renewal of OA, will be refused.

Considerations for Stakeholders

33. Do you support transitioning section 19 to the PT Regulation to include an ability for the chief executive to impose training requirements? Why/why not?

2.17 Training of drivers

Current state

Section 20 of the PT Standard provides that an operator of a relevant service must ensure that each driver who operates a vehicle providing the service is given an *introduction* to the driver's obligations under PT Act (introductory driver training). However, if the operator has received documentary evidence, and is satisfied that the driver has the adequate level of experience and/or the knowledge (equivalent to the introductory driver training), then the operator does not contravene the requirement.

In addition, the operator must also ensure each driver is given *comprehensive training* of their PT Act obligations, under a documented training program, within two months of the driver first operating the vehicle to provide the service.

The operator must keep evidence of the introductory driver training (or the documentary evidence that the driver has the adequate level of experience and/or knowledge) and evidence that the driver has undertaken the documented comprehensive training program.

Failure to comply with the training provisions of the PT Standard can result in show cause action against the person's OA, or the person being given a section 100 notice.

Personalised transport driver training is regulated through section 97 of the PT Regulation⁸.

Challenges

The requirement for an operator to ensure each driver is given introductory driver training and further comprehensive training under a documented training program, ensures that the operator has taken steps to make sure the driver knows their responsibilities.

It is proposed to remove that the operator has two months to comply with the requirement to provide training under the documented training program. This means that driver training is to be completed prior to the driver providing passenger services.

It should be noted that under the proposed changes to the PT Act, drivers also have a safety duty to comply with any reasonable instruction that is given by another duty holder to allow the person to comply with their safety duty.

Proposed approach

It is proposed that the intent of section 20 of the PT Standard be retained and **transition** to the PT Regulation. However, it is proposed to simplify the requirements (and to align more closely with the personalised transport requirements) to provide that:

- an operator of a relevant service must ensure each driver is given training in the driver's obligations under PT Act, before the driver first operates a vehicle providing the service;
- the training must be given under a documented training program; and
- the operator must keep a copy of the documented training program and evidence of each driver's training under the documented training program.

⁸ Personalised Transport Required Driver Training Notice - <https://www.tmr.qld.gov.au/business-industry/taxi-and-limousine/industry-information/industry-regulations/personalised-transport-industry-driver-training>

Where an operator fails to comply, enforcement action under the PT Regulation will include:

- potential show cause action against the person’s OA;
- an offence in the PT Regulation with a monetary penalty in the vicinity of:
 - if an infringement notice is issued - 2 to 4 pu (\$309 to \$619 in 2023-24);
 - if the matter proceeds to court – up to a maximum of 20 pu (\$3,096 in 2023-24) to be determined by the court based on the circumstances of the matter. This maximum penalty is aligned with section 97(1) of the PT Regulation that applies to personalised transport drivers.

Considerations for Stakeholders

34. Do you support that the driver training provisions transition to the PT Regulation? Why/why not?
35. Do you have any concerns with the removal of the introductory training and the period of two months in which to provide training under the documented training program? Why/why not?
36. Are the penalty amounts considered appropriate for the risk associated with committing the offence?

2.18 Compliance with relevant vehicle standards

Current state

Section 23 of the PT Standard provides that the operator of a relevant service must ensure that each vehicle used to provide services complies with the relevant vehicle standards under the HVNL Qld (for a heavy vehicle) or (for another vehicle) is not defective under the Vehicle Standards and Safety Regulation.

Failure to comply with these requirements in the PT Standard can result in show cause action being taken against the person’s OA or giving the operator a section 100 notice.

Challenges

The requirements under the Vehicle Standards and Safety Regulation or the HVNL Qld apply to the driver and/or a person who permits the use of the vehicle, for example, the registered operator of the vehicle (that is, the person in whose name the vehicle is registered). However, these provisions are not able to be applied to the operator of a relevant service if the vehicle is not registered in their name. Therefore, if these provisions of the PT Standard were allowed to expire, TMR may find it difficult to take enforcement action against an operator, who is not the driver or registered operator of the vehicle if noncompliance was identified.

The expiry of these requirements may increase risks to the driver, passengers and other road users if the operator does not have an obligation to ensure that vehicles used to provide a relevant service meet minimum vehicle standards. However, if the provision were retained (and transitioned to the PT Regulation) it would allow the chief executive to take action if an operator permitted a non-compliant vehicle to be used to provide a service.

Proposed approach

It is proposed that the intent of section 23 of the PT Standard be retained and **transition** to the PT Regulation.

If the operator of a relevant service fails to comply, enforcement action under the PT Regulation will include:

- an offence under the HVNL Qld and the Vehicle Standards and Safety Regulation if they permitted the use of the vehicle; and/or
- show cause action against the person’s OA.

This approach would be generally consistent with the personalised transport approach (see sections 156, 158, 164 and 167 of the PT Regulation). While a new offence is not proposed, transitioning the requirement to the PT Regulation will mean a clearer link with show cause action.

Considerations for Stakeholders

37. Do you support that the requirement to comply with relevant vehicle standards transition to the PT Regulation? Why/why not?

2.19 Compliance with the vehicle standards regulation

Current state

Section 24 of the PT Standard aims to ensure an operator only uses a vehicle that has a current certificate of inspection (COI) for the vehicle under the Vehicle Standards and Safety Regulation unless the vehicle is exempt. A COI may be issued for a vehicle after an inspection indicates that the vehicle complies with the minimum vehicle safety standards.

The COI process involves a check of the major safety components of a vehicle, and for public passenger vehicles this must occur every 12 months and applies equally regardless of the age of the vehicle (see section 66 of the Vehicle Standards and Safety Regulation).

Failure to comply with these requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

The requirements around the COI in the Vehicle Standards and Safety Regulation apply to the owner of the vehicle. However, section 24 of the PT Standard applies to the operator of the relevant service, who may not be the owner of the vehicle. Therefore, if the PT Standard expires, TMR would not be able to take enforcement action against the operator of a relevant service if it identifies that the operator used a vehicle to provide the service that did not have a COI.

If the operator does not have an obligation to ensure they only use a vehicle that has a current COI, it may increase the risks for the driver, passengers and other road users.

Proposed approach

To ensure each vehicle used to provide a service has a current COI, it is proposed that the intent of section 24 of the PT Standard be retained and **transition** to the PT Regulation.

If the operator of a relevant service fails to comply, enforcement action under the PT Regulation will include:

- an offence under the Vehicle Standards and Safety Regulation if they are the owner of the vehicle; and/or
- potential show cause action against the person's OA.

This approach would be generally consistent with the personalised transport approach to vehicle requirements (see sections 156, 158, 164 and 167 of the PT Regulation). While a new offence is not proposed, transitioning the requirement to the PT Regulation will mean a clearer link with directions to comply or show cause action.

Considerations for Stakeholders

38. Do you support transitioning the requirement that the operator of a relevant service must ensure each vehicle providing the service has a current COI, into the PT Regulation? Why/why not?

2.20 Safe mass limits for buses built before May 1992

Current state

Section 25 of the PT Standard requires the operator to ensure buses built before May 1992 comply with *Omnibus Licensing Evaluation code S6*, so they do not exceed the safe mass limits. Failure to comply with the PT Standard can result in administrative show cause action against the person's OA, or a section 100 notice.

Challenges

The purpose of section 25 of the PT Standard is to ensure that buses manufactured before 20 May 1992 are fitted with rollover protection that complies with the technical requirements of ADR 59/00⁹. Buses manufactured after this time must already comply with ADR 59/00.

Proposed approach

It is proposed to allow section 25 of the PT Standard to **expire** because there should be no buses operating under an OA without rollover protection unless they have been specifically exempted by the NHVR from certain ADR requirements.

Considerations for Stakeholders

39. Do you support allowing section 25 of the PT Standard to expire? Why/why not?

2.21 Type of vehicle – design and padding

Current state

Section 27 of the PT Standard requires an operator of a relevant service to only use a vehicle of a suitable type to provide the service. An operator is taken to comply with the requirement if the vehicle complies with standards set out in schedule 1.

Schedule 1, section 6 of the PT Standard, provides that a vehicle must comply with particular ADRs when the bus was manufactured, for example, if the bus was an open classification vehicle, the bus must comply with the ADR relating to high back seats at the time the bus was manufactured. Schedule 1, section 6 of the PT Standard also contains requirements around the types of seats and brakes systems. For example the brakes of the bus must be a dual circuit system and a regional classification vehicle with side facing seats must be fitted with seatbelts complying with ADR 4/00¹⁰ and ADR 5/00¹¹.

Schedule 1, section 7 of the PT Standard contains requirements for prescribed vehicles used in the wilderness, including requirements that protect the occupants, for example, from overhanging foliage, inclement weather and if the vehicle rolls over.

Schedule 1, part 3 of the PT Standard aims to ensure that buses are appropriately padded. During a frontal collision, or under some braking actions, injury can result from passengers being propelled forward and contacting any hard surfaces such as unpadded backs of seats, handrails and partitions. These types of injuries, particularly facial and head injuries, can be reduced if padding materials are secured to the hard surfaces that are likely to be contacted.

Failure to comply with these requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

The current approach may not give operators flexibility to provide vehicles that are suitable for passenger services.

The purpose of these requirements is to ensure that the vehicles used to provide services are the appropriate design for the safety of the passengers. For example, the purpose of the bus padding provisions in schedule 1, part 3 of the PT Standard, is to ensure padding is fitted to each hard surface that is likely to be struck by the head of a seated passenger if the bus is involved in a frontal collision.

In 2001, the Queensland Government established a School Transport Safety Task Force and an Interdepartmental Working Group to investigate issues relating to school transport safety. The Task Force recommended that padding be on all buses carrying children to and from school by June 2004.

⁹ Vehicle Standard (Australian Design Rule 59/00 – Standards for Omnibus Rollover Strength) 2007 - <https://www.legislation.gov.au/Details/F2012C00535>

¹⁰ Vehicle Standard (Australian Design Rule 4/00 – Seatbelts) 2006 - <https://www.legislation.gov.au/Details/F2006C00783>

¹¹ Vehicle Standard (Australian Design Rule 5/00 – Anchorages for Seat Belts and Child Restraints) 2006 - <https://www.legislation.gov.au/Details/F2007C00033>

Most buses meet the bus padding requirements at the time of manufacturing as opposed to aftermarket fitting.

Proposed approach

It is proposed the design and padding aspects of these provisions will be allowed to **expire**. It is considered that the proposed new safety duties would ensure that an operator of a relevant service only uses a vehicle of a suitable type to provide the service. The safety duty approach requires services to be as safe as possible but provides a flexible way for operators to comply with requirements.

Considerations for Stakeholders

40. Do you support that the design and padding requirements be allowed to expire and the requirements will be managed under the proposed safety duty? Why/why not?

2.22 Age of vehicle and life extensions

Current state

Section 27 of the PT Standard requires an operator of a relevant service to only use a vehicle of a suitable age to provide the service. An operator is taken to comply with the requirement if the vehicle complies with standards set out in schedule 1, sections 4 and 5 of the PT Standard. In addition, the service life of a heavy bus can be extended under schedule 2 of the PT Standard. Age limits are intended to ensure that safety is not compromised by use of older vehicles, which may have fewer or less advanced safety features.

Failure to comply with section 27 in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

Generally, the maximum age of a light bus is 10 years for an open classification vehicle and 20 years for a regional or local classification vehicle. The maximum age for a heavy vehicle is 25 years for an open, regional or local classification vehicle.

Schedule 2 provides the process for obtaining a 5-year service life extension or an age zero refurbishment service life extension. The purpose of service life extensions is to allow a heavy bus to continue to operate past its maximum age if it meets minimum standards. For example, for a 5-year service life extension, the bus must comply with the ADRs that applied to the bus when the bus was 5 years old.

It has been identified that age restrictions may impact some commercial decisions, noting that operators are still required to maintain a current COI for the vehicles. It has also been identified that prescribing maximum age limits for buses may have other unintended consequences. For example, a bus operator may be less likely to invest in a more expensive vehicle, with greater longevity and potentially more advanced safety features. It has also been identified that maximum age limits reduce an operator's freedom to make commercial decisions in the interests of their business.

However, newer vehicles may be considered safer because the ADRs are under continuous review and improved safety features are progressively applied, for example, the standards for seatbelts continue to evolve and are considered of a higher integrity than their predecessors. In addition, some buses are less susceptible to corrosion with the introduction of marine grade stainless steel bodies and aluminium frame bodies since 2002. It has also been identified that there may be a reduced risk of major breakdowns of newer vehicles, which is particularly important in remote areas.

There are currently operators of vintage or specialist vehicles that are unable to use these vehicles to provide relevant services because the vehicles are over the maximum allowable age, even if the vehicles are well maintained and only operating over short distances. At least one operator has changed their service type to allow them to continue operating, because the vehicle was outside the maximum age requirements for a relevant service.

TMR already imposes vehicle age limits on holders of service contracts, which are in some cases lower than the age limits prescribed in the PT Standard.

Proposed approach

Due to the safety and other considerations related to the age of vehicles, TMR is seeking community and industry feedback on the following identified options:

Option 1: Allow the vehicle age requirements to **expire** and be effectively managed under the proposed safety duties

This option would provide that the age of vehicle provisions in the PT Standard would be effectively managed under the proposed safety duties, whereby the operator would need to ensure, so far as is reasonably practicable, the safety of the person's activities relating to providing the service. The registered operator of the vehicle would also need to ensure that, so far as is reasonably practicable, the risk to safety, related to the vehicle and equipment, is eliminated as far as reasonably practicable. In addition, other oversight mechanisms exist within the COI process and other maintenance requirements and buses are manufactured to comply with updated requirements, for example with rollover protection that complies with the technical requirements of ADR 59/00.

Therefore, the risks associated with the age of buses may be managed through the COI requirements and under a safety duty. However, the removal of the specific age limits may make noncompliant operations more difficult to identify and consequently take enforcement action.

This option provides a flexible way for operators to comply with requirements (for example, the operator may choose to invest in a more expensive vehicle with advanced safety features and undertake maintenance to ensure the longevity of their vehicle in providing the service safely). Failure to comply with a safety duty would lead to a penalty under the relevant safety duty provision and/or potential show cause action to amend, suspend or cancel the person's OA.

Option 2: Transition the vehicle age requirements to the PT Regulation

This option would result in the PT Regulation being amended to include that an operator of a relevant service may only use a vehicle to provide the service if the vehicle is of an age suitable to provide the service and retain the maximum age and life extension requirements.

For this option, where a person fails to comply, enforcement action under the PT Regulation may include:

- potential show cause action against the person's OA;
- an offence in the PT Regulation with a monetary penalty in the vicinity of:
 - if an infringement notice is issued – 2 to 4 pu (\$309 to \$619 in 2023-24);
 - if the matter proceeds to court - up to a maximum of 20 pu (\$3,096 in 2023-24) to be determined by the court based on the circumstances of the matter. This maximum penalty aligns with section 222 of the Queensland Road Rules which relates to requirements for school buses.

Considerations for Stakeholders

41. Do you support option 1, where the age of vehicle and life extension provisions of the PT Standard expire, and safety of the vehicle will be managed generally under existing vehicle requirements and the proposed new safety duties? Why/why not?
42. Do you support option 2, where the age of vehicle requirements will transition to the PT Regulation? Why/why not?
43. Is the penalty amount (for Option 2) considered appropriate for the risk associated with committing the offence?

2.23 Luggage

Current state

Section 27(3) of the PT Standard, to the extent it references schedule 1, sections 8(2), 9(2) and 10, aims to reduce the safety risks to passengers relating to the carriage of luggage in a vehicle being used to provide a relevant service.

Schedule 1, section 8 of the PT Standard provides that an operator of a relevant service, who uses an open or regional classification vehicle, must not use the vehicle to carry or haul luggage unless the

luggage is in a separate luggage compartment or a luggage trailer, or it is a passenger's light hand luggage, or luggage stowed in an overhead locker or overhead luggage rack.

Schedule 1, section 9 of the PT Standard provides that an operator of a relevant service, who uses a local classification vehicle, which is not fitted with a luggage compartment, must not use the vehicle to carry luggage unless the luggage is in a trailer or carried and secured in an area in front of the passengers.

Schedule 1, section 10 of the PT Standard provides that a bus must not carry luggage in a way that will impede a passenger's exit, including a passenger's exit via the emergency exits.

Failure to comply with the luggage requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

One of the dangers of carrying loose luggage in a vehicle is that a bus braking can result in a heavy projectile moving through the vehicle until it hits another object including a passenger or the driver. Carrying loose luggage in a vehicle can also impede passenger movement in the event of an emergency.

Therefore, luggage requirements provide both service and safety benefits, including:

- reducing the risk associated with luggage moving in the vehicle;
- allowing for the ease of disembarkation for passengers in normal bus operations; and
- ensuring efficient and quick disembarkation in an emergency.

It has been identified that luggage requirements largely affect long distance services and airport services. , General route and school services, which make up most services, rarely transport passengers with heavy luggage. However, there have been issues related to complying with these requirements for different types of services, for example for rail replacement buses. Generally, rail passengers have increased expectation that they can carry luggage in the passenger compartment (because there might not be a separate luggage compartment or trailer available). The expectations of passengers, and the commercial pressure this places on bus operators, needs to be balanced with the safety of passengers and the safety of the bus drivers.

It has also been identified that there may be some uncertainty about what constitutes luggage, when considering other bulky items, like surfboards and devices such as e-scooters and e-bikes can be bulky and may be a fire hazard.

In addition, schedule 1, section 10 of the PT Standard only applies to a prescribed vehicle that is a bus. It was identified that there may be value in considering the management of luggage in forward control passenger vehicles, off-road passenger vehicles, and people movers. However, it was also identified that these vehicles generally have more exits available which may reduce the risk.

Proposed approach

It is proposed that the luggage provisions be allowed to **expire** as they can be effectively managed under the proposed safety duties. This provides flexibility to allow an operator to consider the luggage risks and solutions relevant to the services they provide.

Considerations for Stakeholders

44. Do you support allowing the luggage provisions of the PT Standard to expire and be managed under the proposed new safety duty? Why/why not?

2.24 Warning signs and lights on school buses

Current state

Section 27(1)(a) of the PT Standard requires an operator of a relevant service to only use a vehicle of a suitable type to provide the service. An operator is taken to comply with the requirement if the vehicle complies with standards set out in schedule 1, which includes the requirements for warning signs and lights on school buses.

A school bus under the PT Standard means a bus being used to provide a school service outside or partly outside a defined urban area. A school service is defined in TOPTA as a scheduled passenger service only or primarily for the transport of school students to and from school (other than for school

excursions) on days that schools are open for instruction. A defined urban area is defined in the PT Standard to mean the area of the City of Brisbane under the *City of Brisbane Act 2010*, or an area for which a service contract is required (unless it is for school services only, or services for the carriage of eligible school students). Therefore, the warning signs and lights requirements are limited to buses providing school services for particular areas.

The warning signs and lights on school buses provisions of the PT Standard outline:

- the bus must have a visible warning sign on both the front and back of the bus;
- how the warning lights must operate and the ways in which the driver can tell the warning lights are on and can operate the lights;
- the bus must be fitted with two warning lights, one at the front and one at the rear of the bus (including how the warning lights are fitted);
- the content, size, shape and material of the warning signs;
- details about the lens and light of the warning lights; and
- that a bus that is not a school bus, can have school student warning signs and lights fitted that comply with schedule 1, section 20 to 24 of the PT Standard.

Failure to comply with the warning signs and lights on school buses requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

Warnings signs and lights on school buses are intended to warn approaching road users when the bus is picking up or dropping off children because children may be at increased risk as they cross the road near the bus, and the bus frequently stopping may be unexpected in less urban areas. Therefore, stakeholders may have some concern if these requirements are removed.

The provisions only apply to buses outside a defined urban area. There are elements of the current warning signs and lights provisions that could benefit from being clarified. For example, when looking at the requirement for lights operating when a door is opened, this might only apply to the main passenger entry doors, similar to the approach in NSW, as outlined in their technical specifications¹².

Another issue that has been identified is around the use of emergency hire/replacement school buses, which might not have warning lights fitted, when they are used to temporarily replace a school bus that has broken-down or is undergoing maintenance. These buses would still be required to comply with the PT Standard when providing the school service.

Interaction with the HVS Regulation

The PT Standard provides that warning signs and lights provisions of the PT Standard do not apply to a heavy vehicle to which schedule 2, part 6 of division 16 of the HVS Regulation applies. However, the HVNL Qld, provides that the Regulator may, by Commonwealth Gazette notice, exempt a category of heavy vehicles from the requirement to comply with a heavy vehicle standard. This is done through the *Queensland Heavy Vehicle Standards (Warning Lights and Signs on School Buses) Exemption Notice 2022*¹³, which provides that the requirements relating to school bus warning signs and lights in the HVS Regulation do not apply to school buses in Queensland, instead the requirements in the PT Standard apply.

While the HVS Regulation requirements and the PT Standard requirements are largely consistent, it has been identified that, having requirements that are not consistent nationally, may create some difficulties for operators in ensuring buses are manufactured to meet the Queensland requirements in the PT Standard.

¹² NSW Technical Specification - Warning signs and lights for school buses - <https://www.nsw.gov.au/sites/default/files/2021-02/RMS-infosheets-Technical-specifications-150-warning-signs-lights-school-buses.pdf>

¹³ *Queensland Heavy Vehicle Standards (Warning Lights and Signs on School Buses) Exemption Notice 2022* - <https://www.legislation.gov.au/Details/C2022G00111>

Interaction with the Queensland Road Rules

Section 222 of the Queensland Road Rules provides that a person must not drive a school bus that isn't a heavy vehicle unless it is fitted with warning signs and lights under the PT Standard. In addition, the Queensland Road Rules includes requirements around the activation of warning lights, under the PT Standard and the HVS Regulation (see section 222A of the Queensland Road Rules).

The requirements in the Queensland Road Rules are about the use of the warning signs and lights and apply to the driver. The requirements in the PT Standard relate to the vehicle requirements and apply to the operator. However, there has still been some uncertainty about how the different requirements in the PT Standard and Queensland Road Rules work together, for example, how and when lights are activated when picking up or setting down children.

ALVSR model law

The ALVSR are model rules which form the basis for each state and territory to implement their own light vehicle standards. Division 19 of the ALVSR sets out model law provisions relating to warning lights and signs on buses carrying children. To avoid duplication of the warning lights and signs provisions in the PT Standard, Queensland has not yet harmonised these provisions into schedule 1 of the Vehicle Standards and Safety Regulation.

The warning signs and lights on school bus provisions in the ALVRS are consistent with the HVS Regulation, and only vary slightly with the requirements in the PT Standard.

Proposed approach

Due to the safety risks, it is proposed that school bus warning signs and lights requirements will be retained but largely managed through other regulations. This could be achieved by:

- for light school buses – amending the Vehicle Standards and Safety Regulation to include division 19 of the ALVSR;
- for heavy school buses – relying on the requirements already contained in the HVS Regulation;
- including a transitional arrangement, to ensure that buses that currently comply with the requirements in the PT Standard can continue to comply with those requirements for the life of the vehicle;
- creating an exemption notice under the HVNL Qld and a safe movement guideline under the Vehicle Standards and Safety Regulation to ensure the requirements only apply to the vehicles it currently applies to, because the proposed approach is not intended to change who the provisions apply to; and
- if feedback to this discussion paper identifies that slight changes to the national requirements are necessary in the Queensland context, these can be dealt with using an exemption notice under the HVNL Qld and a safe movement guideline under the Vehicle Standards and Safety Regulation.

Under the above provisions, if a person fails to comply they may be subject to penalties under the HVNL Qld and the Vehicle Standards and Safety Regulation. If there is a breach of safety duty, safety duty offences may also apply. In addition, an enforcement officer may issue a defect notice for the vehicle. Defect notices require the vehicle to be repaired within a specified timeframe but do not carry a financial penalty.

Further, under the PT Regulation show cause action against a person's OA may be taken.

Considerations for Stakeholders

45. Do you support the proposed approach that the school bus warning signs and lights provisions be retained through the HVS Regulation and the Vehicle Standards and Safety Regulation? Why/Why not?
46. Are there any circumstances where it may not be appropriate for the use of warning signs and lights requirements to apply, for example, in relation to replacement school buses?
47. Are there any elements of the current provisions that could be clarified, for example, when looking at the requirement for lights operating when a door is opened, should the reference to 'doors' be a reference to 'main passenger entry doors'?
48. Are there any requirements in the PT Standard, relating to warning signs and lights on school buses, that make it difficult to also comply with the Queensland Road Rules?

2.25 Frame inspection

Current state

Section 27(3) of the PT Standard (to the extent it refers to schedule 1, sections 30(1), (3) and (7) of the PT Standard), provides that the operator of a relevant service must have a prescribed inspection entity inspect the body framework of 20-year-old heavy buses. This reduces the risk of using a bus that has a corroded or poorly repaired frame to provide a relevant service.

A prescribed inspection entity is an authorised officer under TORUM or Approved Person who has the appropriate qualifications to undertake the inspections.

Failure to comply with the frame inspection requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

Frame inspections ensure that the safety of a bus is not compromised because of any defects to the vehicle's frame. It is understood that these provisions were introduced in response to a bus rollover in 1987, where it was identified that the normal vehicle inspection of the bus did not reveal body work problems because issues with the frame were not immediately visible.

To ensure body work issues can be identified, schedule 1, section 30, of the PT Standard provides that the operator of a relevant service must have a prescribed inspection entity inspect the body framework of any heavy buses used to provide the service, when the bus is 20 years old. This inspection is intended to identify issues with body work like rust issues.

A frame inspection for a heavy bus is a significant cost, including the down time whilst the bus cannot perform its normal function, the time taken by either the operator's own staff or a commercial entity to remove panels, and the cost to repair the frame of the bus if needed.

Since the requirement was first introduced:

- many buses are now manufactured with materials that do not rust, noting that the percentage of existing buses made from materials that do not rust might be as high as 50% of the fleet;
- the emergence of alternative materials being used to construct and optimise the operations of heavy buses, for example, a rivet-less aluminium system or buses manufactured with frame and body panels being electro plated steel for anti-corrosion;
- there have been improvements in bus design and the introduction of rollover protection through the ADRs; and
- there are new power systems for buses (such as electric and hydrogen) which may impact the weight of the vehicle and its distribution.

However, even in situations where rust and bus design are not an issue, removing the requirement for frame inspections would potentially miss identifying poor repairs.

It should be noted that operators of vehicles providing public passenger services are required to maintain a current certificate of inspection COI. Therefore, under the requirements to have a current COI, all major safety components of the bus are checked every 12 months. However, this might not identify issues with the frame of the bus.

There are also issues in being able to undertake frame inspections for particular vehicles, such as the Toyota Commuter and Rosa which are over 5 tonnes, but not designed in a way that the frame can be inspected.

Proposed approach

Due to the complexity of this issue, noting there are safety risks related to the deterioration of the frame, but there are also changes in construction materials and technology, TMR is seeking community and industry feedback on the following identified options:

Option 1: Frame inspection requirements could **expire** as they are effectively managed under the proposed safety duties.

This option would provide that Schedule 1, sections 30(1), (3) and (7) would be allowed to expire. However, the requirements would be effectively managed under the proposed safety duties.

This approach would allow the operator to identify the risks and implement plans to manage those risks, reflecting the different risk factors including the history of the bus, the construction of the bus and the location that the bus operates. The registered operator of the vehicle would also need to ensure, so far as is reasonably practicable, that vehicle and equipment is without risk to the safety of any persons.

In addition, other oversight mechanisms exist within the COI process and mandatory maintenance requirements which ensure the roadworthiness of a vehicle. However, this may not identify issues with the frame.

Under this option, an operator must ensure that any motor vehicle used to provide a service is maintained in a safe condition, and this may still be achieved through frame inspections. In addition, some operators might have to still meet their contractual obligations in relation to frame inspections. This option is intended to provide a flexible approach to meet the different types of vehicles and services.

Failure to comply with the safety duty would lead to a penalty under the relevant safety duty offence provision and/or potential show cause action against the person's OA.

See also section 2.26 in this chapter of this paper (structural repairs), which addresses issues related to the repair of frames.

Option 2: Frame inspection requirements are retained and **transition** to the PT Regulation.

This option would provide that Schedule 1, sections 30(1), (3) and (7) of the PT Standard would be retained and transition to the PT Regulation. The PT Regulation could be amended so that:

- the operator of a relevant service must have a prescribed inspection entity inspect the body framework of any heavy buses used to provide the service when the bus is 20 years old;
- the operator of a relevant service must have a prescribed inspection entity inspect the body framework of any heavy buses used to provide the service if the operator wants to introduce a heavy bus that is at least 21 years old into service in Queensland;
- the operator of a relevant service must have a prescribed inspection entity inspect the body framework of the bus for signs of weakening caused by rust if the bus has substantial rust that may affect the structural integrity of the bus;
- Where a person fails to comply, enforcement action under the PT Regulation may include:
 - potential show cause action to amend, suspend or cancel the person's OA;
 - an offence in the PT Regulation with a monetary penalty in the vicinity of:
 - if an infringement notice is issued – 2 to 4 pu (\$309 to \$619 in 2023-24);
 - if the matter proceeds to court - up to a maximum of 20 pu (\$3,096 in 2023-24) to be determined by the court based on the circumstances of the matter. This maximum penalty is aligned with section 223 of the PT Regulation.

Considerations for Stakeholders

49. Do you support option 1, that the frame inspection requirements in the PT Standard would be allowed to expire as they are effectively managed under the proposed safety duties?
50. Do you support option 2, to retain and transition the frame inspection requirements to the PT Regulation? Why do you consider the safety duty is not sufficient? Is 20 years the appropriate age for the frame inspection to occur? Who would be the appropriate person to inspect the framework?
51. Is the penalty amount (for option 2) considered appropriate for the risk associated with committing the offence?

2.26 Structural repairs

Current state

Section 27(3) of the PT Standard (to the extent it refers to schedule 1, sections 31 and 32(2), (3) and (4) of the PT Standard), aims to reduce the risk of an operator of a relevant service using an unqualified person to undertake structural repairs and not having structural repairs inspected by a prescribed inspection entity.

Schedule 1, section 31 of the PT Standard provides that if a frame, bows or sheeting of a bus is repaired, it must be repaired by a tradesperson who is qualified for that type of repair. This ensures that repairs are done by someone who has the qualifications and experience to allow them to undertake the work to a particular standard.

Schedule 1, section 32 of the PT Standard provides that if there have been structural repairs to a bus, because of corrosion or an accident, the operator must have the repairs inspected by a prescribed inspection entity before the frame is painted or body panels are fitted to the bus.

A prescribed inspection entity is an authorised officer under TORUM or Approved Person who has the appropriate qualifications to undertake the inspections.

The intention of schedule 1, section 32(4) is for the operator to provide the prescribed inspection entity the names and qualifications of the person who performed the repairs.

Failure to comply with the structural repair requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

The purpose of requiring a qualified tradesperson to undertake frame, bows or sheeting repairs is to ensure the continuing structural safety of the vehicle.

Should the standard expire, TMR would not be able to ensure structural repairs are undertaken by qualified tradespersons, or ensure the inspection, by a prescribed inspection entity, of structural repairs due to corrosion or accident damage. However, it has been identified that there can be some difficulty in having the repairs inspected by an prescribed inspection entity.

Proposed approach

Due to the safety risks and other issues related to structural repairs, TMR is seeking community and industry feedback on the following identified options:

Option 1: Structural repair requirements can **expire** as they are effectively managed under the proposed safety duties.

This option would provide that schedule 1, sections 31 and 32 would be allowed to expire. However, the requirements would be effectively managed under the proposed safety duties.

This approach would allow the operator to identify the risks and implement plans to manage those risks, for example, by ensuring that any repair to the frame is performed by a qualified tradesperson. The registered operator of the vehicle would also need to ensure that, so far as is reasonably practicable, that vehicle and equipment is without risk to the safety of any persons. A breach of the safety duty would result in a penalty under the relevant safety duty offence provision or potential show cause action to amend, suspend or cancel the person's OA.

Option 2: Structural repair requirements should be retained and **transition** to the PT Regulation.

This option would provide that schedule 1, sections 31 and 32 will be retained and transition to the PT Regulation. Examples of enforcement action under the PT Regulation include:

- potential show cause action to amend, suspend or cancel the person's OA;
- an offence in the PT Regulation with a monetary penalty in the vicinity of:
 - if an infringement notice is issued 2 to 4 pu (\$309 to \$619 in 2023-24);
 - if the matter proceeds to court a penalty up to a maximum of 20 pu (\$3,096 in 2023-24) to be determined by the court based on the circumstances of the matter aligned with section 223 of the PT Regulation.

Considerations for Stakeholders

52. Do you support option 1, that the structural repair requirements in the PT Standard would be allowed to expire as they are sufficiently managed under the proposed safety duty?
53. Do you support option 2, that it is necessary to transition the structural repair requirements to the PT Regulation? Why do you consider the safety duty is not sufficient? Who would be the appropriate person to inspect the repairs?
54. Is the penalty amount for option 2 considered appropriate for the risk associated with committing the offence?

2.27 Compulsory third party insurance

Current state

Section 28 of the PT Standard aims to ensure an operator of a relevant service only uses a vehicle to provide the service that complies with the insurance requirements under the *Motor Accident Insurance Act 1994* (MAIA).

The purpose of the MAIA is to provide a compulsory third-party (CTP) insurance scheme covering liability for personal injury arising out of motor vehicle accidents. This ensures that anyone injured in a motor vehicle accident, through no fault of their own, can obtain fair and timely compensation and can access the medical, rehabilitation and care services they need to recover as quickly as possible. For the at-fault driver or motor vehicle owner, CTP provides unlimited indemnity, protecting them from being personally sued for any compensation claims made against them.

Failure to comply with the MAIA requirements under the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

Under the MAIA, the offences relate to driving or permitting the use of an uninsured motor vehicle on a road, or in a public place. These offences apply to the driver or the owner of the vehicle. As the operator of the relevant service may not be the owner of the vehicle, if section 20 of the PT Standard expired, the operator would not be held responsible if they permit the driver to use the vehicle to provide a relevant service.

Proposed approach

It is proposed to retain the intent of section 28 of the PT Standard and **transition** to the PT Regulation. This will ensure show cause action can still be taken against an operator if they allow the use of a vehicle to provide a relevant service when it does not meet the CTP insurance requirements.

This approach would be generally consistent with the personalised transport approach to vehicle requirements (see sections 156, 158, 164 and 167 of the PT Regulation).

Considerations for Stakeholders

55. Do you support that the CTP insurance provisions be retained and transition to the PT Regulation?

2.28 Documented maintenance program

Current state

Section 29 of the PT Standard aims to ensure vehicles used to provide a relevant service are maintained to a standard that meets or exceeds the maintenance program specified by the vehicle's manufacturer and ensures any defects that may impact the safety of the driver, passengers and other road users are identified and fixed quickly. Defects may be identified through the requirement to undertake a daily pre-trip inspection of the vehicle, including checking fluids, the operation of brakes and steering, and other safety equipment and systems.

Schedule 1, sections 33 and 34 of the PT Standard, aim to ensure operators of relevant services, provided using a bus, keep maintenance records as well as a record of any structural inspection. Maintenance records are used to support OA audits and investigations to provide evidence that a vehicle is being maintained to a reasonable standard, especially where the vehicle has been involved in an accident.

Failure to comply with the documented maintenance program requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Section 224 of the PT Regulation requires the operator of motor vehicles used to be provide booked hire services and taxi services:

- to service and maintain vehicles;
- to keep maintenance program and records; and
- to make maintenance program and records available for inspection.

Challenges

The requirement for an operator to have a documented maintenance program ensures that vehicles are appropriately maintained and that there are systems to identify and rectify issues. This will minimise maintenance issues with the vehicles, identify any defects and rectify issues as quickly as possible to ensure the safety of passengers, the driver and other road users.

In addition, an operator must keep a record of all servicing or other maintenance, including a record of the daily pre-trip inspection, on each vehicle used to provide the service.

A pre-trip inspection aims to identify any issues before the vehicle goes on the road, preventing accidents and increasing road user safety. However, it has been identified that pre-trip requirements may benefit from having minimum standards which are clearly defined.

The purpose of Schedule 1, section 33 is to ensure that the maintenance record for a bus that provides a relevant service, is kept for at least 5 years. Maintaining maintenance records provides several benefits, including:

- ensuring the accuracy of, and access to, information about the maintenance done on the vehicle;
- providing information to support OA audits;
- assisting in supporting or refuting enforcement action; and
- providing evidence that a vehicle is being maintained to a reasonable standard, especially if the vehicle has been involved in an accident.

It has been identified that maintenance records for larger bus companies are increasingly moving from hard copy to online systems and the associated data is easier to store for longer periods.

The current PT Standard requirements for a documented maintenance program may appear too prescriptive. However, the provisions target vehicle safety and are an efficient way of monitoring compliance.

Proposed approach

It is proposed to ensure the requirements in relation to documented maintenance programs and maintenance records be retained and **transition** to the PT Regulation. This approach ensures that the requirements are clearly mandatory and therefore ensures that action can be taken if an operator does not comply with the requirements for a vehicle. This approach would extend the requirements for documented vehicle maintenance programs that currently apply to operators of booked hire and taxi services, to all road-based public passenger services.

Enforcement action under the PT Regulation will include:

- potential show cause action against the person's OA;
- an offence in the PT Regulation with a monetary penalty in the vicinity of:
 - if an infringement notice is issued - 2 to 4 pu (\$309 to \$619 in 2023-24);
 - if the matter proceeds to court - up to a maximum of 20 pu (\$3,096 in 2023-24) to be determined by the court based on the circumstances of the matter aligned with section 223 of the PT Regulation.

Considerations for Stakeholders

56. Do you support that the documented maintenance program and maintenance records provisions be retained and transition to the PT Regulation?
57. Have you experienced any issues with how section 29 and schedule 1, section 33 and 34 of the PT Standard currently operates that could be improved?
58. Is the penalty amount considered appropriate for the risk associated with committing the offence?

2.29 Maintaining vehicles in a clean, tidy and comfortable condition

Current state

Section 30 and schedule 3 of the PT Standard aim to ensure vehicles providing a general route service or school service are maintained in a clean, tidy and comfortable condition, including that:

- body panels are not excessively dented;
- exterior paintwork is not excessively scratched, dirty or discoloured and non-illuminated signs must be clearly visible and legible;
- seat covers are clean and not torn or frayed, springs must not be broken or sagging, and seatbelts must not be shabby or dirty; and
- interior, floor, luggage compartment, windows, windscreen and so on must be clean and in good condition.

Failure to comply with the maintenance requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a direction under section 100 of the PT Act.

Challenges

The purpose of section 30 and schedule 3 of the PT Standard is to ensure that each vehicle providing the service is maintained in a clean, tidy and comfortable condition. While some of the requirements largely relate to the aesthetics of a vehicle, the requirements may also support the safety of services. For example, requirements around the condition of seatbelts, floor coverings and disembarking lights.

Except to the extent that the requirement relates to the safety of the vehicle, it is arguable whether the Queensland Government should be regulating requirements relating to the cosmetic appearance of buses that are not subject to contracts or funding arrangements with the State.

However, confidence in public passenger transport may reduce if there are passenger transport providers who are not meeting a minimum standard, particularly in areas where there are no alternative services.

Under the Vehicle Standards and Safety Regulation, if a light vehicle is defective, the owner of the vehicle may be given a defect notice to require the owner to take stated reasonable action. Under the HVNL Qld, a defect notice can be issued to the driver of a defective heavy vehicle, including a vehicle that has a part that has deteriorated to an extent that it cannot be reasonably relied on to perform its intended function. Any of the safety risks associated with a part of a light or heavy vehicle could potentially be the subject of a defect notice to manage the safety risk.

There are, however, some elements that relate to the safety of the passenger in the vehicle, for example, if the floor covering is not intact, this may pose a tripping hazard for passengers. These issues might not be identified during the programmed inspections under the Vehicle Standards and Safety Regulation because the requirements are more related to the experience of the passenger in the vehicle than the safety of the vehicle.

Proposed approach

It is proposed that section 30 and schedule 3 of the PT Standard be allowed to **expire** and that any safety related elements be managed under the proposed new safety duties. For example, the elements related to safety might include the condition of seatbelts, floor coverings and disembarking lights.

Other legislative requirements will continue, for example, using defect notices to satisfactorily ensure a vehicle is maintained to a safe standard.

Considerations for Stakeholders

59. Do you support expiry of the provisions about maintaining vehicles in a clean, tidy and comfortable condition, that relate to safety, on the basis they will be effectively managed under the proposed safety duty provisions?

2.30 Access to information and the reliability of services

Current state

Section 32 of the PT Standard aims to ensure that the operator of a relevant service, which is a general route service or school service, provides the public with a convenient way to obtain information about the general route service or school service. For example, having the information about the service available online.

Section 33 of the PT Standard aims to ensure that the operator of a relevant service, which is a school service, ensures that any designated transport points are stated in the timetable and another document

available to passengers. This could include publishing the information online or having the information contained in a timetable that is easy for passengers to obtain.

Section 39 of the PT Standard aims to ensure general route services and school services are provided in accordance with the advertised schedules for the services.

Failure to comply with these information requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

The purpose of sections 32, 33 and 39 of the PT Standard is to provide the public with a convenient way to get information, such as timetables and designated transport points, and that services operate in accordance with the schedules.

While this is largely for the convenience of the passengers, access to information may also provide a safety benefit for passengers. Knowing what time a bus is expected to arrive at a stop could minimise the time a person is waiting at a bus stop at night or knowing what time a bus is expected to arrive at a designated transport point to allow a parent to pick up their child from the bus stop.

There are also benefits for trip planning, for example, a person may need to connect from one service to another service or have a medical appointment they need to get to. In addition, new technology is increasing passenger's expectation for buses to run on timetable.

Operators who provide services under a service contract or funding agreement may be required by these arrangements to provide the public with service information (including about disruptions) and to improve performance of their services. Examples of performance measures included in service contracts include the completion of trips shown in the timetable and operating services on time. Translink provides journey planning, service notices and real time information for most urban services and some school services through its website and through the Translink App and also streams this information for external providers such as Google Maps. Timetable information is also available to customers as handheld take home products, on posters at bus stations and at bus stops. Operators partner with Translink to identify and deliver service changes that improve coverage and optimise the performance of services.

In relation to school services, typically, an operator leads the activities in relation to planning and communication, including working with schools, distributing change notices onboard the service and discussing service changes with parents. For urban services, the Translink communication and marketing teams lead and implement communication plans for service changes as appropriate, including media events and advertising.

Proposed approach

It is proposed to allow sections 32, 33 and 39 of the PT Standard to **expire**. There are already several other tools which ensure that the public is provided with a convenient way to get information about timetables and designated transport points and service reliability, including through service contract requirements or commercial incentive to provide customer service.

Considerations for Stakeholders

60. Do you support the expiry of section 32 (Access to information about services provided) of the PT Standard?
61. Do you support the expiry of section 33 (Timetable for school service) of the PT Standard?
62. Do you support the expiry of section 39 (Reliability of service) of the PT Standard?

2.31 Incident management

Current state

Section 4 of the PT Standard defines an incident as an event:

- that prevents the provision of a relevant service; or
- disrupts the provision of the relevant service for more than 30 minutes.

Sections 13(4) and 34 to 37 of the PT Standard aim to set out a driver's and an operator's obligations in relation to incident management plans and incident reports. This includes requirements for:

- an operator to have an incident management plan that sets out procedures to be followed by the operator, employees and the driver if an incident happens;
- reviewing the plan;
- ensuring each relevant vehicle has a copy of the plan;
- ensuring an incident report is completed within 24 hours after the incident happens;
- the specific information to be included in report details of the incident; and
- communicating with passengers.

Failure to comply with the incident management requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

In addition to the incident management requirements in the PT Standard, services that operate under service contracts will generally have a higher standard of reporting.

Challenges

Incident management plans ensure there are appropriate documented instructions and procedures in place for an operator, driver, and other employees to follow in the case of an incident. The purpose is to maximise public safety and assist in restoring normal activities as quickly as possible.

The incident management plan may provide for how to evacuate passengers in an emergency and how to secure the vehicle to ensure the safety of other road users. However, there can be serious occurrences, which might not be considered incidents under the current definition, for example, a medical emergency in a vehicle that doesn't disrupt the service for more than 30 minutes.

Incident management plans and incident reporting requirements are considered important elements to enable operators to provide safe and reliable services, ensuring incidents are appropriately responded to, managed and reported.

The *Work Health and Safety Regulation 2011* (WHS Regulation) includes comprehensive requirements around emergency plans and procedures. A person conducting a business or undertaking at a workplace must ensure an emergency plan is prepared for the workplace that provides for emergency procedures that include an effective response to an emergency; evacuation procedures; medical treatment, and assistance; testing of the emergency procedures; and information, training and instruction in relation to implementing the emergency procedures. The person must also maintain and implement the emergency plan. See section 43 of the WHS Regulation.

Proposed approach

It is proposed to retain and **transition** to the PT Regulation the requirement that the driver must tell the passengers the reason for the disruption and the alternate arrangements for the service (section 13(4) of the PT Standard), because it is essential that customers are informed about arrangements being made for the completion of the relevant service. However, there may be some types of vehicles where the passengers will be informed through the vehicle communication system. For such vehicles, the driver will need to comply with the operator's SMP in relation to informing passengers. While a new offence is not proposed, transitioning the requirement to the PT Regulation will mean a clearer link with directions to comply or show cause action.

It is also proposed that incident management plan requirements (see sections 34, 35 and 37 of the PT Standard) will be allowed to **expire** and that the safety elements will be managed as part of the proposed SMP.

Further it is proposed to retain and **transition** to the PT Regulation the incident recording and the keeping of these records requirements (see section 36 of the PT Standard), because it is essential to ensure that the operator can produce this information during audits or other investigations. While a new offence is not proposed, transitioning the requirement to the PT Regulation will mean a clearer link with directions to comply or show cause action.

Considerations for Stakeholders

63. Do you support the expiry of the incident management provisions in sections 34, 35 and 37 of the PT Standard, with the intention that procedures for incidents will be effectively managed under the proposed safety duty and SMP provisions?
64. Do you support transitioning the requirement that the driver must tell the passengers the reason for the disruption and the alternate arrangements for the service in section 13(4) of the PT Standard?
65. Do you support transitioning the incident reporting provisions in section 36 of the PT Standard and transitioning to the PT Regulation?
66. Do you consider the current definition of "incident", as contained in section 4 of the PT Standard, is sufficient to capture safety incidents? If no, what needs to be effectively managed that isn't effectively managed by the current definition of incident?

2.32 Destination signs

Current state

Section 40 of the PT Standard aims to ensure that each vehicle being used to provide a general route service is readily identifiable as belonging to the service and displays a conspicuous destination sign.

Failure to comply with the destination sign requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

The purpose of section 40 is to provide passengers with information about the general route service being provided by the vehicle. This can have safety benefits because it ensures that a person knows the service they are using and that it is going to the expected destination.

However, destination signs might not be appropriate for all general route services. For example, a service may take multiple passengers to multiple different destinations in the one journey, such as flexilink services which provide flexible, shared service transport within particular zones.

It has also been identified that there is some ambiguity relating to what is required, for example, what does it mean to be 'readily identifiable as belonging to a service' and 'displays a conspicuous destination sign'. This creates difficulties in complying with the requirements.

Operators providing general route services under service contracts may also be required to comply with specific requirements, for example, a service contract might require a vehicle to have a front legible electronic illuminated destination sign with a four-digit route number and destination name. It must also be able to display programmable messaging, for example 'Out of Service' messages.

If the standard expired, industry are expected to continue to include destination signs on vehicles voluntarily because there are commercial benefits in ensuring that buses are readily identifiable to encourage people to use the service.

Proposed approach

It is proposed that section 40 of the PT Standard be allowed to **expire**. This matter will be dealt with as a business decision for the operator or under a contract or funding arrangement with the State.

Considerations for Stakeholders

67. Do you agree that the destination sign provision in the PT Standard be allowed to expire?

2.33 Complaints

Current state

Section 41 of the PT Standard aims to ensure that the operator of relevant service records and promptly investigates complaints. In addition, if any action is taken in relation to the complaint, that the action is recorded.

TMR currently audits operators to check that the operator has recorded all complaints and note if they were promptly investigated, actioned, and any response to the complaint is recorded. Failure to comply with the complaint requirements in the PT Standard can result in show cause action being taken against the person's OA or giving the operator a section 100 notice.

Challenges

A complaints process allows operators to identify areas that need an improvement in policies and procedures. Complaint processes also support the reporting and investigation of unsafe, unprofessional, and unacceptable conduct. For example, the operator receives a complaint about the actions of a driver and when investigating the complaint, the operator identifies that the driver needs some additional training. The operator could then implement training to the driver (or to all drivers if it might be a larger issues).

Complaint management records can also:

- assist the operator in identifying priorities for training, policy and reforms;
- assist to identify and share best practices;
- assist to demonstrate patterns of behaviours (for example, for drivers who move between bus companies);
- assist to give insight into possible contributing factors for future issues and incidents; and
- assist TMR when evaluating the competence of a bus operator offering to provide public passenger services, during procurement.

Proposed approach

Due to the potential safety benefits related to a complaints management process, TMR is seeking community and industry feedback on the following identified options:

Option 1: Complaints requirements **expire** as they will be effectively managed under the proposed safety duties.

This option proposes that section 41 of the PT Standard be managed under the proposed safety duty and SMP framework.

Capturing the requirements under the SMP would provide a flexible way for operators to identify and mitigate safety risks associated with complaints, including that those complaints are recorded, investigated and appropriate action is taken. Failure to comply with a safety duty may result in the penalty under the relevant safety duty offence provision and/or potential show cause action.

This option is consistent with the current approach for personalised transport.

Option 2: Complaints requirements to be retained and **transition** to the PT Regulation

This option proposes that the complaint management provisions, contained in section 41 of the PT Standard be retained and transition to the PT Regulation.

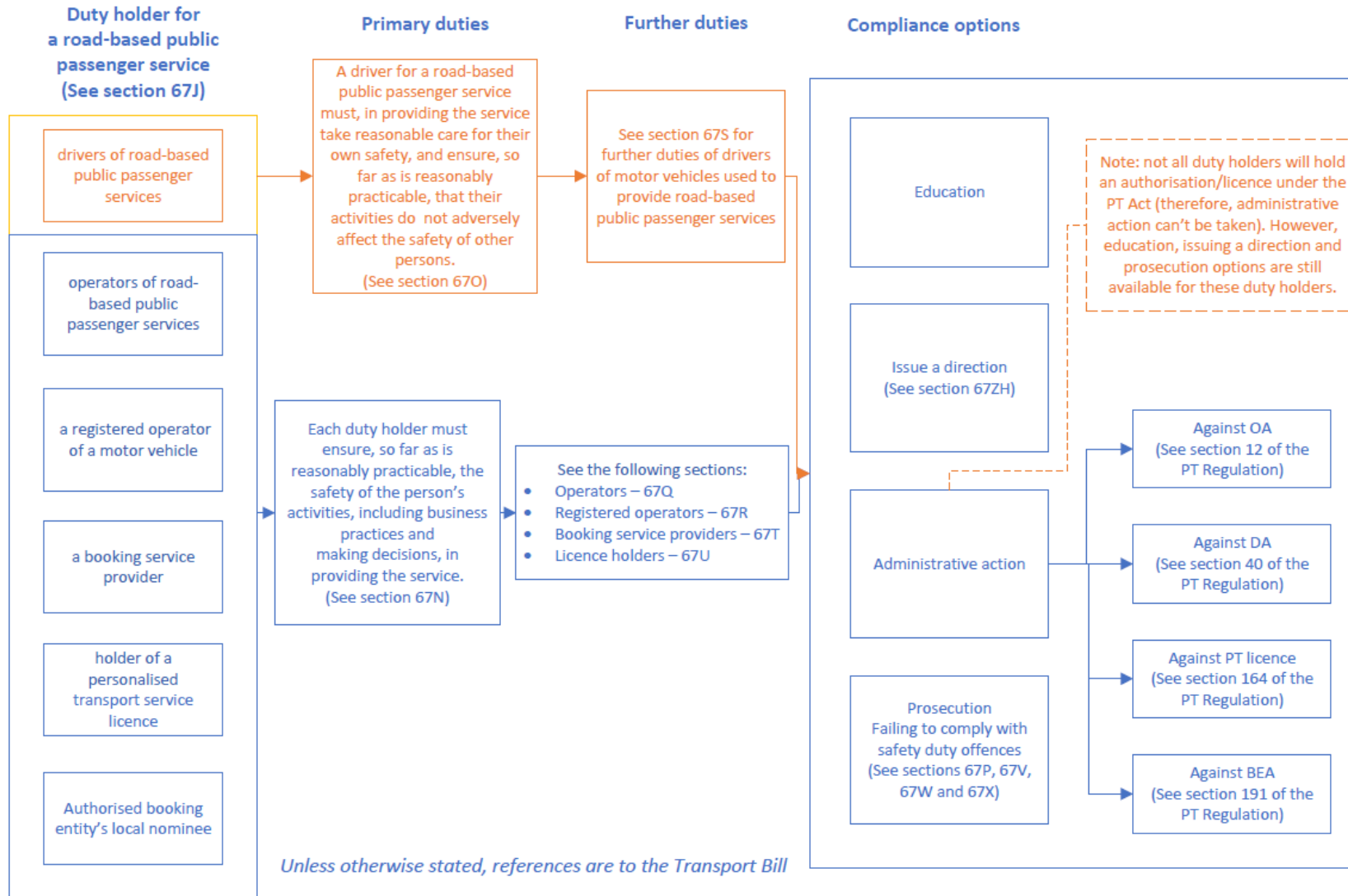
This approach reflects the safety benefits of a complaints processes. It provides the operator a record of the complaints and the action taken, and also provides information to support the operator during audits. While a new offence is not proposed, transitioning the requirement to the PT Regulation will mean a clearer link with directions to comply or show cause action.

Considerations for Stakeholders

68. Do you support option 1, that the complaints management provisions of the PT Standard will be effectively managed under the proposed safety duty and SMP provisions, and therefore the provisions be allowed to expire? Why/why not?
69. Do you support option 2, that the complaint management provisions of the PT Standard be retained and transition to the PT Regulation. Why/why not?

Appendix - Diagrams

What are the future safety duties and compliance options?



NOT GOVERNMENT POLICY

What are the future SMP requirements and offences?

