

I certify that this is a copy of the authorised version of this Statutory Rule as at 1 July 2021, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 July 2021.

Robyn Webb
Chief Parliamentary Counsel
Dated 8 July 2021

TASMANIA

PASSENGER TRANSPORT SERVICES REGULATIONS 2013

STATUTORY RULES 2013, No. 43

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PASSENGER TRANSPORT SERVICES REGULATIONS 2013

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Passenger Transport Services Act 2011*.

Dated 17 June 2013.

PETER G. UNDERWOOD
Governor

By His Excellency's Command,

NICK MCKIM
Minister for Sustainable Transport

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the *Passenger Transport Services Regulations 2013*.

2. Commencement

These regulations take effect on the day on which Part 3 of the *Passenger Transport Services Act 2011* commences.

3. Interpretation

In these regulations –

Act means the *Passenger Transport Services Act 2011*;

authorised officer means a person authorised under section 9 of the *Traffic Act 1925*.

4. Incidental passenger services

For section 8(1)(d) of the Act, the following motor vehicles are prescribed as motor vehicles to which the Act does not apply:

- (a) vans used to transport prisoners within the meaning of the *Corrections Act 1997*;
- (b) large passenger vehicles used primarily to provide services in, or responses to, an emergency within the meaning of the *Emergency Management Act 2006*, whether the vehicle is operated by the State or a private organisation.

5. Regular passenger services

For section 35(2)(c) of the Act, a passenger service is taken not to be a regular passenger service for the purposes of the Act if the passenger service is operated by, or on behalf of, a private institution or association solely for use by people enrolled at, or affiliated with, that institution or association.

PART 2 – PASSENGER SERVICES

6. Accreditation register

For section 23(2)(a) of the Act, the following particulars in respect of an accredited operator are prescribed as the particulars that are to be contained within the register required to be kept under that section:

- (a) the full name of the accredited operator;
- (b) the business address of the accredited operator;
- (c) each type of accreditation held by the accredited operator;
- (d) the date each type of accreditation held by the accredited operator commenced;
- (e) the current accreditation status of the accredited operator;
- (f) any conditions attached to an accreditation held by the accredited operator;
- (g) the full name and contact details for the responsible person nominated in respect of each accreditation held by the accredited operator.

7. Displaying evidence of accreditation

- (1) The Commission may issue written instructions as to how evidence of accreditation is to be displayed in vehicles used to provide services under the accreditation.
- (2) An accredited operator must comply with any applicable written instructions issued under subregulation (1).

Penalty: Fine not exceeding 10 penalty units.

8. Placing drivers and passengers at unreasonable risk

- (1) An accredited operator or responsible person must not, by any act or omission, place the safety of a driver of, or passenger on, a vehicle providing a passenger transport service at unreasonable risk.

Penalty: Fine not exceeding 50 penalty units.

- (2) For the purposes of subregulation (1), a person is taken not to have placed another person's safety at unreasonable risk if the person commits an act, or makes an omission, for the purpose of ensuring that a passenger transport service is provided in accordance with the laws of the State or the conditions of an accreditation.

9. Authorised operators must provide service

A person who is authorised under Part 3 of the Act to provide the whole, or any part, of a regular passenger service must not, without the

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Part 2 – Passenger Services

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prior written permission of the Commission or lawful excuse, fail to provide that service or part service.

Penalty: Fine not exceeding 50 penalty units.

10. Operational capacity

- (1) A person must not, without the prior written permission of the Commission, operate a passenger transport service for the purposes of carrying passengers, or cause or allow such a passenger transport service to be operated, if the number of seated and standing passengers on the vehicle being used to provide the passenger transport service exceeds its operational capacity as determined under Schedule 1.

Penalty: Fine not exceeding 25 penalty units.

- (2) A person must not, without the prior written permission of the Commission, operate a passenger transport service for the purposes of carrying passengers, or cause or allow such a passenger transport service to be operated, unless the operational seating capacity of the vehicle being used to provide the passenger transport service, in terms of the number of adult seats available for passengers, is prominently displayed inside the vehicle, together with its operational standing capacity if this is greater than zero.

Penalty: Fine not exceeding 15 penalty units.

PART 3 – TRAVEL AND TRAVELLERS

11. Conditions of travel

- (1) Subject to this regulation, an accredited operator of a passenger transport service may make travelling on that passenger transport service subject to any condition the accredited operator thinks appropriate.
- (2) A condition imposed under subregulation (1) may relate to, but is not limited to, the following matters:
 - (a) restrictions on eating and drinking;
 - (b) standards of behaviour while travelling;
 - (c) personal hygiene;
 - (d) disposal of litter;
 - (e) restrictions on noise levels and type of noise;
 - (f) carriage of goods and luggage;
 - (g) soiling of vehicles;
 - (h) occupation of seats.
- (3) A condition imposed under subregulation (1) must not be inconsistent with the Act but may cover any area not covered by the Act.
- (4) The accredited operator of a passenger transport service must –

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- (a) if practicable, display a copy of each condition of travel on the passenger transport service, imposed under subregulation (1), in a prominent location inside the vehicle used to provide the passenger transport service; or
- (b) if such a display is impracticable, ensure that a such a copy is available on request.

Penalty: Fine not exceeding 5 penalty units.

- (5) The driver of a vehicle providing a passenger transport service may give a direction to a passenger on the vehicle to cease any behaviour the driver reasonably believes contravenes a condition imposed under subregulation (1) in respect of the passenger transport service.

12. Refusal of access to passenger transport services

- (1) The accredited operator of a passenger transport service may refuse to permit a person to travel on the vehicle providing the service if –
 - (a) the person has breached the Act or a condition imposed under regulation 11; and
 - (b) the person has failed to comply with all directions from the driver of the vehicle under that regulation in respect of the behaviour that is causing, or has caused, the breach.

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- (2) On refusing to permit a person to travel on a vehicle providing a passenger transport service, the accredited operator of that service must –
- (a) give the person written notice that he or she cannot travel on the passenger transport service; and
 - (b) if the accredited operator of the passenger transport service operates more than one passenger transport service, specify in the written notice which passenger transport services the person is unable to travel on while the notice is in effect; and
 - (c) in the written notice, specify the period for which the person will be unable to travel on the passenger transport services specified in paragraph (b).
- (3) A period specified in a written notice under subregulation (2)(c) must not exceed 3 months.

13. Refusal of hiring

- (1) Subject to subregulation (2), the driver of a vehicle providing a regular passenger service must stop the vehicle providing the service, if safe to do so, and pick up any person indicating to the driver that he or she wishes to travel on the vehicle.

Penalty: Fine not exceeding 10 penalty units.

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- (2) Despite subregulation (1), the driver of a vehicle providing a regular passenger service may refuse a person travel on the vehicle if –
- (a) to allow the person to travel on the vehicle would breach a condition of –
 - (i) an authorisation under which the regular passenger service is operating; or
 - (ii) the passenger service contract under which the regular passenger service is operating; or
 - (b) the person fails to comply with a request made by the driver in accordance with regulation 15(1); or
 - (c) the person is the subject of a notice under regulation 12(2) that is still in effect; or
 - (d) the person, who is not a school-aged student, refuses to pay the required fare; or
 - (e) the driver reasonably believes that –
 - (i) the person does not intend to comply with the Act; or
 - (ii) the person’s luggage can not be safely stowed on the vehicle; or
 - (iii) allowing the person entry would cause the vehicle to exceed its operational capacity as determined under Schedule 1; or

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(iv) there is some other lawful excuse for refusing the hiring –

and the driver informs the person of alternative means of transportation that may be available.

14. Not setting down passenger at nominated place

(1) The driver of a vehicle providing a regular passenger service must not set down a passenger at a place other than the destination nominated by the passenger.

Penalty: Fine not exceeding 10 penalty units.

(2) It is a defence in proceedings under subregulation (1) for the defendant to show that –

(a) the passenger was set down elsewhere pursuant to a direction given in accordance with regulation 17(1); or

(b) the passenger was set down elsewhere –

(i) in an emergency; or

(ii) for safety reasons; or

(iii) on other reasonable grounds; or

(c) the destination nominated by the passenger was not on the route of the regular passenger service; or

- (d) in the case of a regular passenger service having designated stopping places for the picking up and setting down of passengers, the passenger was set down at the stop nearest to the nominated destination; or
- (e) in the case of a school bus service being provided under a contract with the Commission, the passenger, being a schoolchild, was set down elsewhere in accordance with the terms of that contract.

15. Identity of passengers

- (1) The driver of, or an authorised officer on, a vehicle providing a passenger transport service may request a person to state his or her name and address if –
 - (a) the driver, or authorised officer, reasonably believes that the person has committed, or may intend to commit, an offence under regulation 16 or 17; or
 - (b) the driver, or authorised officer, reasonably believes that the person has breached a condition of travel imposed under regulation 11; or
 - (c) the person has indicated that he or she wishes to travel on the vehicle but pay for that travel at a later time.

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- (2) A person must comply with a request under subregulation (1) as soon as possible.

Penalty: Fine not exceeding 10 penalty units.

16. Offences by travellers

- (1) A person travelling on a vehicle providing a passenger transport service must not –
- (a) do anything to endanger the safety of –
 - (i) himself or herself; or
 - (ii) another person; or
 - (iii) the vehicle; or
 - (b) threaten, harass or attempt to intimidate another person; or
 - (c) wilfully obstruct or hinder another person; or
 - (d) wilfully disturb the comfort or convenience of another person; or
 - (e) soil, damage or deface –
 - (i) the vehicle; or
 - (ii) any of the vehicle's fittings; or
 - (iii) the property of another person; or
 - (f) behave in an offensive or indecent manner; or

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- (g) use any profane, indecent, obscene, offensive or blasphemous language; or
- (h) throw anything inside, or from, the vehicle.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person travelling as a passenger on a vehicle providing a regular passenger service must not –
 - (a) smoke; or
 - (b) consume alcohol; or
 - (c) possess an open container of alcohol; or
 - (d) litter; or
 - (e) have an animal on board the vehicle, other than an animal permitted by law; or
 - (f) place his or her feet on the seats of the vehicle; or
 - (g) spit on any part of the vehicle; or
 - (h) play an instrument; or
 - (i) busk.

Penalty: Fine not exceeding 5 penalty units.

- (3) Subject to subregulation (4), a person travelling as a passenger on a vehicle providing a regular passenger service must, if no other seat is available on the vehicle, vacate his or her seat or offer to vacate his or her seat for –

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- (a) a person who appears to have a disability or injury; or
- (b) an elderly person; or
- (c) a woman who is visibly pregnant; or
- (d) a person accompanying a child less than 5 years of age; or
- (e) any other person who appears to have special needs.

Penalty: Fine not exceeding 5 penalty units.

- (4) Subregulation (3) does not apply to a passenger on a vehicle providing a regular passenger service who is referred to in the paragraphs of that subregulation.
- (5) A person travelling as a passenger on a vehicle providing a regular passenger service must not do any of the following without the permission of the driver of the vehicle or an authorised officer:
 - (a) eat or drink other than water, unless eating or drinking for a clear, or diagnosed, medical reason;
 - (b) occupy more than one seat;
 - (c) sell or distribute, or attempt to sell or distribute, anything;
 - (d) display, or attempt to display, any sign;

- (e) affix, or attempt to affix, anything to the vehicle.

Penalty: Fine not exceeding 5 penalty units.

17. Travellers causing nuisance or danger

- (1) The driver of, or an authorised officer on, a vehicle providing a passenger transport service may stop the vehicle, if safe to do so, and direct any person to leave the vehicle if the driver or authorised officer reasonably believes that the person is –
 - (a) committing an offence under regulation 16(1); or
 - (b) committing an offence under regulation 16(2), (3) or (5) and has failed to comply with any direction from the driver to cease to commit the offence.
- (2) A person must comply with a direction under subregulation (1) immediately.

Penalty: Fine not exceeding 10 penalty units.

- (3) A police officer, using only such force as may reasonably be necessary in the circumstances, may remove a person from a vehicle providing a passenger transport service if the police officer is satisfied that –
 - (a) the person has been given a direction under subregulation (1); and

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- (b) there were reasonable grounds for issuing the direction; and
 - (c) the person has failed to comply with the direction.
- (4) Notwithstanding subregulation (1), a driver or authorised officer must not direct a person under that subregulation to leave a vehicle providing a passenger transport service if, in the circumstances –
- (a) the person’s safety is to be put at unreasonable risk; or
 - (b) the person is a schoolchild and the direction would be inconsistent with any directions of the Commission concerning the transport of schoolchildren on regular passenger services.

18. Requirement to pay fares

- (1) A person must not travel as a passenger on a vehicle providing a regular passenger service unless –
- (a) the person has paid any required fare or holds a ticket that entitles the person to travel on the vehicle at that time and for the journey the person is making; or
 - (b) the person holds a valid pass, issued or approved by the Commission, entitling the person to travel on the vehicle at that time without paying a fare; or

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- (c) the person has been given permission by the driver of, or by an authorised officer on, the vehicle to pay the fare for the person's journey at a later time; or
- (d) the person is a schoolchild and the service being provided is a school bus service that, under the terms of the contract with the Commission, does not require passengers to pay fares.

Penalty: Fine not exceeding 10 penalty units.

- (2) The driver of, or an authorised officer on, a vehicle providing a regular passenger service may –
 - (a) request any person on the vehicle to produce for inspection the ticket or pass that entitles the person to travel on the vehicle at that time and for the journey the person has made or is apparently making; and
 - (b) if the driver or authorised officer reasonably believes that a person on the vehicle has not paid the correct fare for the journey the person has made or is apparently making, request that person on the vehicle to pay that fare or, if applicable, the amount of that fare that is outstanding.

- (3) A person must comply with a request under subregulation (2) immediately.

Penalty: Fine not exceeding 10 penalty units.

PART 4 – MISCELLANEOUS

19. Requirements in relation to standing passengers

A driver who is operating a vehicle as a passenger transport service must not –

- (a) cause or allow a passenger on the vehicle who is travelling in a standing position to obstruct an entrance or exit on the vehicle; or
- (b) cause or allow a passenger on the vehicle to travel in a standing position to the danger or discomfort of another passenger or the driver.

Penalty: Fine not exceeding 10 penalty units.

20. Requirements in relation to freight and luggage

A driver must not operate a vehicle as a passenger transport service if –

- (a) any freight or luggage being carried on the vehicle is not safely stowed; or
- (b) any aisle, entrance or emergency exit on the vehicle is obstructed by freight or luggage.

Penalty: Fine not exceeding 10 penalty units.

21. Safety restrictions on standing and parking

A driver must not stand, or park, a vehicle providing a passenger transport service to pick up or set down passengers, or cause or allow a vehicle providing a passenger transport service to stand or park for that purpose, if by so doing the driver would be likely to –

- (a) create an unreasonable risk to the safety of –
 - (i) the passengers being picked up or set down; or
 - (ii) the driver of, or other passengers on, the vehicle; or
 - (iii) other persons who may lawfully use that street, whether in other vehicles or as pedestrians; or
- (b) unreasonably disrupt the lawful movement of traffic.

Penalty: Fine not exceeding 25 penalty units.

22. Prescribed fees

The fees specified in Schedule 2 are prescribed as the fees that are payable for the matters to which they respectively relate.

23. Transitional

- (1) In this regulation –

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Part 4 – Miscellaneous

subsisting contract means a contract to provide core passenger services –

- (a) entered into under section 18 of the *Passenger Transport Act 1997*; and
 - (b) subsisting immediately before the day proclaimed under section 2(2) of the Act.
- (2) For the purposes of the Act, a subsisting contract –
- (a) is taken to be a passenger service contract; and
 - (b) continues in effect according to its terms until the time it was originally due to expire.
- (3) A reference in a subsisting contract to the Commission is taken to be a reference to the Secretary.

SCHEDULE 1 – OPERATIONAL CAPACITY

Regulation 10

1. Operational capacity

The operational capacity of a vehicle being used to provide a passenger transport service is the sum of its operational seating capacity as determined under clause 2 of this Schedule and its operational standing capacity as determined under clause 3 of this Schedule.

2. Operational seating capacity

(1) In this clause –

compliant seatbelt means a seatbelt that complies with the relevant second edition ADR or third edition ADR;

second edition ADR has the same meaning as in the *Vehicle and Traffic (Vehicle Standards) Regulations 2014*;

third edition ADR has the same meaning as in the *Vehicle and Traffic (Vehicle Standards) Regulations 2014*.

(2) Subject to subclause (3) or (4), the operational seating capacity of a vehicle being used to provide a passenger transport service is equal to its adult seating capacity, as specified in the record of motor vehicles kept under the *Vehicle and Traffic Act 1999* with the following qualifications:

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- (a) any 3 children being carried on that passenger transport service are to be counted as 2 passengers if none of those children has attained the age of 12 years and the seating positions on the vehicle –
 - (i) are not fitted with seatbelts; or
 - (ii) are fitted with compliant seatbelts that are designed specifically to convert from 2 adult seating positions to 3 child seating positions;
 - (b) a child being carried on that passenger transport service need not be counted as a passenger if the child has not attained the age of 5 years and is being carried on the lap of another person.
- (3) The Commission may determine, having regard to the condition of the route and other relevant factors, that the operational seating capacity of a vehicle used to provide a regular passenger service should be less than the seating capacity determined under subclause (2).
- (4) If the Commission gives the accredited operator of a regular passenger service written notice of the making of a determination under subclause (3) in respect of a vehicle, the operational seating capacity of that vehicle when it is being used to provide the service is the seating capacity determined by the Commission under that subclause.

3. Operational standing capacity

(1) In this clause –

holding device means an approved strap, approved handgrip or other approved device for providing support for standing passengers on passenger transport services;

prescribed vehicle means a vehicle providing a passenger transport service that has –

- (a) a distance between floor and roof, at each point where a passenger may stand upright, of at least 1.8m; and
 - (b) an aisle width of at least 380mm; and
 - (c) a holding device for each standing passenger.
- (2) The standing capacity of a prescribed vehicle is the same as the number of holding devices fitted to the vehicle but is not in any case greater than one person for each 1 600cm² of unobstructed floor space.
- (3) The standing capacity of a passenger transport service that is not a prescribed vehicle is zero.
- (4) Subject to subclauses (5) and (6), the operational standing capacity of a vehicle is the same as its standing capacity.

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- (5) The Commission may determine, having regard to the length of the route and the normal operating speed and other relevant factors, that the operational standing capacity of a prescribed vehicle used to provide a regular passenger service should be less than the vehicle's standing capacity.
- (6) If the Commission gives the accredited operator of a regular passenger service written notice of the making of a determination under subclause (5) in respect of a prescribed vehicle, the operational standing capacity of that vehicle when it is being used to provide that service is the operational standing capacity determined by the Commission under that subclause.

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SCHEDULE 2 – FEES

Regulation 22

	Matter for which fee payable	Fee (Fee units)
1.	Application to become an accredited operator for a passenger transport service	79
2.	Application to become an accredited operator for a hire and drive passenger service	79
3.	Application to provide a regular passenger service	79
4.	Application to vary conditions of accreditation	50
5.	Application to update who is the responsible person for an accreditation	50
6.	Issue of revised accreditation certificate	20

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 26 June 2013.

These regulations are administered in the Department of Infrastructure, Energy and Resources.

NOTES

The foregoing text of the *Passenger Transport Services Regulations 2013* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 July 2021 are not specifically referred to in the following table of amendments.

Citation	Serial Number	Date of commencement
<i>Passenger Transport Services Regulations 2013</i>	S.R. 2013, No. 43	1.7.2013
<i>Vehicle and Traffic Amendment (Road Vehicle Standards) Act 2020</i>	No. 34 of 2020	1.7.2021

TABLE OF AMENDMENTS

Provision affected	How affected
Schedule 1	Amended by No. 34 of 2020, Sched. 1