

Authorised Version No. 001
Commercial Passenger Vehicle Industry
Act 2017

No. 35 of 2017

Authorised Version as at
23 August 2017

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The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

- (a) to impose a levy on the carrying out of commercial passenger vehicle service transactions—
 - (i) to recover the cost of transitional assistance provided to certain participants in the commercial passenger vehicle industry; and
 - (ii) to partly fund the regulation of the commercial passenger vehicle industry; and
- (b) to amend the **Transport (Compliance and Miscellaneous) Act 1983**—
 - (i) to implement reforms to the taxi-cab and hire car industry by removing the requirement for the payment of licence fees, abolishing restricted hire vehicle licences and special purpose vehicle licences, and streamlining the application process for taxi-cab licences; and

- (ii) to require persons who provide a booking service for the use of a commercial passenger vehicle to be accredited; and
 - (iii) to make it an offence to accept a request from a provider of a booking service when the person knows or ought reasonably to know that the provider is unaccredited and to provide for the granting of injunctions restraining offending conduct; and
 - (iv) to repeal redundant provisions relating to the establishment of trading arrangements for the transfer and trading of taxi-cab licences; and
 - (v) to enable the Taxi Services Commission to exempt persons from specified requirements under Part VI (Commercial passenger vehicles) for the purpose of reducing the regulatory burden on that person; and
 - (vi) to make further provision in relation to the sharing of information between Victoria Police and the Taxi Services Commission about certain offences in order to assist the Commission in carrying out its functions; and
 - (vii) to improve the operation of that Act; and
- (c) to amend the **Transport Integration Act 2010** to reduce the regulatory burden on transport bodies when issuing, granting, giving or renewing certain specified transport authorisations under transport legislation; and

- (d) to amend the **Bus Safety Act 2009** to ensure taxi-cabs that are physically similar to buses are regulated as taxi-cabs; and
- (e) to amend the **Road Safety Act 1986** to empower employees of the Taxi Services Commission to stop and check for defective and unroadworthy commercial passenger vehicles; and
- (f) to amend the **Taxation Administration Act 1997** to make Part 2 of this Act a taxation law for the purposes of that Act.

2 Commencement

- (1) This Act (except Part 2, Divisions 1, 2 and 3 of Part 3 and Division 4 of Part 4) comes into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), Part 2, Divisions 1, 2 and 3 of Part 3 and Division 4 of Part 4 come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation before 30 June 2018, it comes into operation on that day.

3 Definitions

- (1) In this Act—

affiliated service means a service of any kind (other than a service constituted by the performance of an act referred to in section 5(1)(a) or (b)) provided under an affiliation agreement;

affiliated trip provider means a provider of an unbooked commercial passenger vehicle service who, for the purpose of facilitating the provision of services of that kind, obtains one or more affiliated services under an

affiliation agreement with a provider of a booking service;

affiliation agreement—see section 4;

booked commercial passenger vehicle service means a commercial passenger vehicle service that is provided as a result of the provision of a booking service;

booking service—see section 5;

bus has the meaning given by section 3(1) of the **Bus Safety Act 2009**;

bus service has the meaning given by section 3(1) of the **Bus Safety Act 2009**;

commercial passenger vehicle has the same meaning as it has in Part VI of the **Transport (Compliance and Miscellaneous) Act 1983**;

commercial passenger vehicle service means the carriage of one or more passengers, in a motor vehicle operating (within the meaning of Part VI of the **Transport (Compliance and Miscellaneous) Act 1983**) as a commercial passenger vehicle, on a journey that begins in Victoria and ends at one or more destinations whether in or outside Victoria;

commercial passenger vehicle service transaction means the provision for a single fare of—

- (a) a booked commercial passenger vehicle service; or
- (b) an unbooked commercial passenger vehicle service;

Commissioner means Commissioner of State Revenue referred to in section 62 of the **Taxation Administration Act 1997**;

ESC means the Essential Services Commission established by section 7 of the **Essential Services Commission Act 2001**;

levy means the levy imposed by section 9;

motor vehicle means a motor vehicle within the meaning of the **Road Safety Act 1986** and includes a trailer attached to the vehicle;

registered levy payer means a person who is registered by the Commissioner under section 14(4);

return period—see section 13;

TSC means the Taxi Services Commission established by section 115B of the **Transport Integration Act 2010**;

unbooked commercial passenger vehicle service means a commercial passenger vehicle service that is provided other than as a result of the provision of a booking service.

- (2) For the purposes of this Act, the provider of an unbooked commercial passenger vehicle service is—
- (a) if the driver of the commercial passenger vehicle used in the provision of the service is an employee of the owner of that vehicle, that owner; or
 - (b) in any other case, the driver of the commercial passenger vehicle used in the provision of the service.

4 Meaning of *affiliation agreement*

An *affiliation agreement* is an agreement between a person who provides a booking service (*service provider*) and a person who provides unbooked commercial passenger vehicle services (*trip provider*) that—

- (a) whether or not it imposes any other obligation on the service provider, imposes an obligation on the service provider to maintain, on behalf of the trip provider, trip records of a kind suitable for the purposes of the returns required to be lodged under section 15(1) or 17(1); and
- (b) specifies the amount the service provider will be paid for the provision by the service provider of each kind of service to be provided to the trip provider under the agreement; and
- (c) contains an acknowledgement by the service provider that the service provider is responsible for lodging returns, being a registered levy payer and paying levies in respect of unbooked commercial passenger vehicle services provided by the trip provider while the agreement is in effect.

5 Meaning of *booking service*

- (1) For the purposes of this Act, a person provides a *booking service* if the person carries on the business of—
 - (a) receiving requests for persons to be provided with commercial passenger vehicle services; and
 - (b) arranging or facilitating the acceptance of those requests by or on behalf of drivers of commercial passenger vehicles.

- (2) In determining whether a person (the *service provider*) provides a *booking service*, it does not matter—
- (a) whether or not the commercial passenger vehicle service is provided by the driver as an agent or employee of the service provider; or
 - (b) whether the agreement or arrangement in accordance with which the commercial passenger vehicle service is provided is between—
 - (i) the driver and the passenger; or
 - (ii) the service provider and either the driver or the passenger; or
 - (iii) any other persons; or
 - (c) whether the reward or hiring fee for the commercial passenger vehicle service is paid to the driver by—
 - (i) the service provider; or
 - (ii) the passenger; or
 - (iii) any other person; or
 - (d) whether or not an act referred to in subsection (1)(a) or (b) involves the use of a wholly or partly automated electronic system; or
 - (e) whether or not the service provider is located outside Victoria; or
 - (f) whether or not the service provider also receives requests for persons to be carried as passengers outside Victoria.

- (3) A person who owns, operates or controls a wholly or partly automated electronic system that performs the acts referred to in subsection (1)(a) and (b) is taken to provide a *booking service*.
- (4) A person prescribed for the purposes of this subsection is taken to provide a *booking service*.
- (5) A person prescribed for the purposes of this subsection is taken not to provide a *booking service* despite anything to the contrary in the other provisions of this section.

6 Taxation Administration Act 1997

Part 2 is to be read together with the **Taxation Administration Act 1997** which provides for the administration and enforcement of that Part and other taxation laws.

Note

Part 2 and any regulations made under this Act for the purposes of Part 2 are a taxation law under the **Taxation Administration Act 1997**.

7 Act binds the Crown

This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

8 Extraterritorial operation

- (1) This Act applies in relation to—
 - (a) a commercial passenger vehicle service even if part of that service is provided outside Victoria; and
 - (b) a booking service provided wholly or partly outside Victoria, whether in or outside Australia.
- (2) For the purpose of subsection (1), this Act applies outside Victoria to the full extent of the extraterritorial legislative power of the Parliament.

Part 2—Commercial passenger vehicle service levy

9 Levy imposed

This Part imposes a levy in respect of each commercial passenger vehicle service transaction carried out during a return period.

10 Who is liable for the levy?

The levy in respect of a commercial passenger vehicle service transaction is payable—

- (a) for a booked commercial passenger vehicle service, by the provider of the booking service; or
- (b) for an unbooked commercial passenger vehicle service the provision of which is facilitated by an affiliated service, by the provider of the affiliated service and the affiliated trip provider jointly and severally; or
- (c) for any other unbooked commercial passenger vehicle service, by the provider of that service.

11 Who collects the levy?

The Commissioner is to collect any levies payable under this Part.

12 Amount of levy

- (1) The amount of the levy for a commercial passenger vehicle service transaction is—
 - (a) until the commencement of regulations made under subsection (2), \$1; and
 - (b) on and from the commencement of regulations made under subsection (2), the prescribed amount.

- (2) The regulations, in accordance with section 20(2), may specify an amount less than \$2 as the amount of the levy.
- (3) The amount of the levy in respect of the financial year beginning on 1 July 2019 and each subsequent financial year is to be varied in accordance with the following formula—

$$\frac{A \times B}{C}$$

where—

A is \$1 or the prescribed amount; and

B is the all groups consumer price index for Melbourne as at 15 June in the preceding financial year published by the Australian Statistician in respect of the December quarter immediately preceding that 15 June; and

C is the all groups consumer price index for Melbourne as at 15 June 2018 published by the Australian Statistician in respect of the quarter ending on 31 December 2017.

- (4) If an amount calculated in accordance with subsection (3) is not a multiple of 5 cents, the amount must be rounded down to the nearest multiple of 5 cents.
- (5) The Minister must, before 30 June in 2019 and each subsequent year, cause a notice to be published in the Government Gazette specifying the amount of the levy payable in the financial year beginning on 1 July in that year.

13 Return period

- (1) The return period is—
 - (a) until the commencement of regulations made under subsection (2), each quarter of each financial year; and
 - (b) on and from the commencement of regulations made under subsection (2), the prescribed period.
- (2) The regulations may specify a period not exceeding 12 months as the return period.

14 Persons liable for levy must be registered

- (1) Subject to subsections (2) and (3), a person who becomes liable to pay a levy must apply to the Commissioner, in the form approved by the Commissioner, for registration under this Part before the end of the first return period in which they became liable.

Penalty: 500 penalty units in the case of a body corporate;
100 penalty units in any other case.
- (2) A person does not commit an offence against subsection (1) if the person has a reasonable excuse for not applying for registration.
- (3) Subsection (1) does not apply to the provider of an unbooked commercial passenger vehicle service in respect of the provision of such a service that is facilitated by an affiliated service.
- (4) The Commissioner must register a person who applies under subsection (1).

- (5) To avoid doubt, for the purposes of section 157(2AB) of the **Transport (Compliance and Miscellaneous) Act 1983**, subsection (1) imposes a requirement on an authority holder (within the meaning of that section) who is liable to pay a levy to be registered under this Part.

Note

Under section 157(2AB) of the **Transport (Compliance and Miscellaneous) Act 1983** the licensing authority may suspend or revoke the authority of an authority holder who contravenes a requirement applying to the authority holder under this Part.

15 Returns

- (1) Subject to subsection (2), a person who is liable to pay one or more levies for a return period must lodge a return in respect of that period with the Commissioner within 30 days after the end of that period.
- (2) Subsection (1) does not apply to the provider of an unbooked commercial passenger vehicle service in respect of any commercial passenger vehicle service transactions carried out by the provider in a return period that were facilitated by an affiliated service.
- (3) A return is to be in the form, and contain the information, determined by the Commissioner.

16 Cancellation of registration by Commissioner

- (1) The Commissioner, by written notice given to a person who is a registered levy payer, may cancel the person's registration under this Part for any reason the Commissioner thinks sufficient.
- (2) A cancellation of registration has effect from the date specified for the purpose by the Commissioner in the notice of cancellation.

17 Cancellation of registration by registered levy payer

- (1) A person who ceases to incur any liability to pay levies and does not anticipate again incurring any such liability must, within 14 days after so ceasing—
 - (a) give written notice of that fact to the Commissioner; and
 - (b) unless previously lodged, lodge a return for the final return period in respect of which they are liable to pay one or more levies.
- (2) The notice cancels the person's registration under this Part on the day on which it is received by the Commissioner.

18 When is a levy due for payment?

A levy is due for payment at the end of the period within which the return that relates to it is required to be lodged under section 15(1) or 17(1).

19 Recovery of levy by provider of affiliated service

- (1) A provider of an affiliated service who is liable to pay a levy under an affiliation agreement may require the affiliated trip provider to pay the provider of the affiliated service an amount equal to the levy payable.
- (2) The requirement is duly made if it is contained in a written request given to the affiliated trip provider that specifies the amount of the levy.
- (3) If the amount is not paid, the provider of the affiliated service may recover it from the affiliated trip provider in a court of competent jurisdiction as a debt due to the provider of the affiliated service.

20 Regulations

- (1) The Governor in Council may make regulations for or with respect to—
 - (a) prescribing persons for the purposes of section 5(4) or (5);
 - (b) subject to subsection (2), specifying an amount less than \$2 as the amount of the levy;
 - (c) specifying a period not exceeding 12 months as the return period;
 - (d) generally any other matter or thing that is authorised or required to be prescribed or necessary to be prescribed to carry out this Part.
- (2) The Minister must not recommend the making of regulations specifying an amount of \$1 or more as the amount of the levy unless the ESC recommends the specification of that amount in accordance with subsection (3).
- (3) The ESC must not recommend the specification of an amount unless the ESC is satisfied that it is the lowest amount that is reasonably likely to result in the total amount of the levy collected within 8 years of the commencement of this Part being equal to the money spent on transitional assistance.
- (4) For the purposes of subsection (3), the *money spent on transitional assistance* is the total amount paid by the State (whether as compensation or otherwise) to participants in the commercial passenger vehicle industry to assist those participants in relation to changes to the law that applies to that industry as compared with that law as in force immediately before the commencement of this Act.

- (5) Regulations made under this Part may—
- (a) be of general or limited application;
 - (b) differ according to differences in time, place or circumstances;
 - (c) apply, adopt or incorporate any matter contained in any document whether—
 - (i) wholly or partially or as amended by the regulations; or
 - (ii) as in force at a particular time; or
 - (iii) as in force from time to time.

Part 3—Amendment of Transport (Compliance and Miscellaneous) Act 1983

Division 1—Taxi-cab and hire car industry reform amendments

21 Definitions

In section 86(1) of the **Transport (Compliance and Miscellaneous) Act 1983** the definitions of *Country Hire Car Zone*, *Metropolitan Hire Car Zone*, *restricted hire vehicle*, *restricted hire vehicle licence*, *special purpose vehicle*, *special purpose vehicle licence* and *tour package* are repealed.

22 Application for licence

Section 140(1B) of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.

23 Section 141B repealed

Section 141B of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.

24 New heading to section 142 substituted

For the heading to section 142 of the **Transport (Compliance and Miscellaneous) Act 1983** substitute—

"Hire cars".

25 Hire cars and special purpose vehicles

(1) In section 142(1AA) of the **Transport (Compliance and Miscellaneous) Act 1983** omit—

- (a) "and that under section 140(1B) nominates the Metropolitan Hire Car Zone,"; and
- (b) "if satisfied that the applicant is a fit and proper person to hold such a licence".

- (2) Sections 142(1AB) to (1A) of the **Transport (Compliance and Miscellaneous) Act 1983** are **repealed**.
- (3) In section 142(2) of the **Transport (Compliance and Miscellaneous) Act 1983** omit "or a special purpose vehicle licence".
- (4) Sections 142(2A) to (6) of the **Transport (Compliance and Miscellaneous) Act 1983** are **repealed**.
- (5) In section 142(7) and (8) of the **Transport (Compliance and Miscellaneous) Act 1983** omit "or a special purpose vehicle licence".
- (6) Section 142(10) of the **Transport (Compliance and Miscellaneous) Act 1983** is **repealed**.

26 Section 142A repealed

Section 142A of the **Transport (Compliance and Miscellaneous) Act 1983** is **repealed**.

27 Taxi-cab licences

- (1) In section 143(1A) of the **Transport (Compliance and Miscellaneous) Act 1983** omit "and that under section 140(1A) nominates the Melbourne Metropolitan Zone or the Urban and Large Regional Zone,".
- (2) Sections 143(1B) and (1C) of the **Transport (Compliance and Miscellaneous) Act 1983** are **repealed**.
- (3) In section 143(2A) of the **Transport (Compliance and Miscellaneous) Act 1983**, after "operator" **insert** "or under Division 6 as a driver".

28 New section 143AAA inserted

After section 143 of the **Transport (Compliance and Miscellaneous) Act 1983** insert—

"143AAA Accredited drivers granted new taxi-cab licences taken to be accredited taxi-cab operators

A driver who is accredited under Division 6 and who is granted a new taxi-cab licence is taken to be an accredited taxi-cab operator while the licence they hold is in force."

29 Conditions

- (1) In section 144(1) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "Subject to subsection (1AA), the" substitute "The".
- (2) Sections 144(1)(be) to (d) of the **Transport (Compliance and Miscellaneous) Act 1983** are repealed.
- (3) Section 144(1AA) of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.
- (4) Section 144(1B) of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.

30 Review by Tribunal of licence cancellation etc.

- (1) Section 146C(1)(ac) of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.
- (2) In section 146C(1)(b) of the **Transport (Compliance and Miscellaneous) Act 1983** omit "144(1B),".

31 Annual licence fees

Sections 147A(2A) to (2E) and (4) to (8) of the **Transport (Compliance and Miscellaneous) Act 1983** are repealed.

32 Transfer of licences

Section 149(1AA)(a) of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.

33 Register of taxi industry participants

- (1) In section 169ZA(2)(d) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "licence; or" substitute "licence."
- (2) Section 169ZA(2)(e) of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.
- (3) For section 169ZA(3)(c) of the **Transport (Compliance and Miscellaneous) Act 1983** substitute—
"(c) the number of commercial passenger vehicles licensed in the name of the person."

34 New Division 13 of Part VIII inserted

After Division 12 of Part VIII of the **Transport (Compliance and Miscellaneous) Act 1983** insert—

**"Division 13—Transitional provisions—
Commercial Passenger Vehicle Industry
Act 2017**

358 Restricted hire vehicle licences taken to be hire car licences

A restricted hire vehicle licence that is in force immediately before the commencement of section 22 of the **Commercial Passenger Vehicle Industry Act 2017** is taken on that commencement to be a hire car licence.

359 Special purpose vehicle licences taken to be hire car licences

A special purpose vehicle licence that is in force immediately before the commencement of section 25 of the **Commercial Passenger Vehicle Industry Act 2017** is taken on that commencement to be a hire car licence.

360 Taxi-cab licences

- (1) On the commencement of section 27 of the **Commercial Passenger Vehicle Industry Act 2017**—
 - (a) every licence to operate a taxi-cab assigned under section 150 to an assignee within the meaning of section 150 and in force immediately before that commencement is revoked and the assignee is taken to be granted a new taxi-cab licence; and
 - (b) every taxi-cab licence granted under section 143 or 143A that is in force immediately before that commencement, and that has not been assigned under section 150, is revoked and the holder of that licence is taken to be granted a new taxi-cab licence.
- (2) In this section—

new taxi-cab licence has the same meaning as in Part VI;

taxi-cab has the same meaning as in Part VI;

taxi-cab licence has the same meaning as in Part VI.

361 Accredited providers of taxi-cab network services

- (1) A person accredited under Division 4 of Part VI as a provider of taxi-cab network services whose accreditation under that Division (a *taxi-cab network services accreditation*) is in force immediately before the commencement of section 35 of the **Commercial Passenger Vehicle Industry Act 2017** is taken, on that commencement, to be accredited under that Division as a provider of a booking service.
- (2) In addition, the taxi-cab network services accreditation that person holds is taken, on the commencement of section 35 of the **Commercial Passenger Vehicle Industry Act 2017**, to be an accreditation accrediting that person to be a provider of a booking service."

Division 2—Commercial passenger vehicle booking service amendments

35 Definitions and amendment of Division heading

- (1) In section 2(1) of the **Transport (Compliance and Miscellaneous) Act 1983** insert the following definition—

"booking service has same meaning as in the **Commercial Passenger Vehicle Industry Act 2017**;"
 - (2) In section 130A(1) of the **Transport (Compliance and Miscellaneous) Act 1983**, the definition of *taxi-cab network service* is **repealed**.
 - (3) In the heading to Division 4 of Part VI of the **Transport (Compliance and Miscellaneous) Act 1983**, for "**taxi-cab**" substitute "**commercial passenger vehicle**".
-

36 Purpose of accreditation

In section 130 of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab" substitute "commercial passenger vehicle".

37 Section 131A substituted and new sections 131B and 131C inserted

For section 131A of the **Transport (Compliance and Miscellaneous) Act 1983** substitute—

"131A Offence for provider of booking service not to be accredited

- (1) A person must not provide a booking service unless the person is accredited under this Division to provide that service.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

- (2) A person must not advertise or in any way hold themselves out as able or willing to provide a booking service unless the person is accredited under this Division to provide that service.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

- (3) Subsections (1) and (2) do not apply in relation to—

- (a) the driver of a commercial passenger vehicle receiving or accepting a request for persons to be provided with a commercial passenger vehicle service;
or

- (b) the holder of a commercial passenger vehicle licence—
 - (i) receiving a request for a person to be provided with a commercial passenger vehicle service; and
 - (ii) arranging or facilitating the acceptance of the request by the driver of the licensed vehicle; or
- (c) the driver of a commercial passenger vehicle providing a booking service as a member of an unincorporated body or association that is accredited under this Division to provide that service; or
- (d) the owner or operator of a commercial passenger vehicle—
 - (i) receiving a request for a person to be provided with a commercial passenger vehicle service; and
 - (ii) arranging or facilitating the acceptance of the request by the driver of the vehicle.

131B Offence to accept request from booking service that is not accredited

- (1) A person who accepts a request from a provider of a booking service for a person to be provided with a commercial passenger vehicle service commits an offence if the person knows, or ought reasonably to know, that the provider of the booking service is not accredited under this Division to provide that service.

- (2) A person who commits an offence against subsection (1) is liable to—
- (a) in the case of a person who is a provider of a booking service, a penalty not exceeding 240 penalty units for a natural person or 1200 penalty units for a body corporate; and
 - (b) in the case of a person who is the operator of a taxi-cab, a penalty not exceeding 60 penalty units for a natural person or 300 penalty units for a body corporate; and
 - (c) in the case of a person who holds a driver accreditation, a penalty not exceeding 60 penalty units; and
 - (d) in any other case, a penalty not exceeding 50 penalty units.

131C Injunctions

- (1) The Supreme Court may grant an injunction, in any terms that it considers appropriate, if satisfied that a person has engaged, or is proposing to engage, in conduct that constitutes or would constitute—
- (a) a contravention of section 131A(1) or (2) or 131B(1); or
 - (b) attempting to contravene section 131A(1) or (2) or 131B(1); or
 - (c) aiding, abetting, counselling or procuring a person to contravene section 131A(1) or (2) or 131B(1); or
 - (d) inducing, or attempting to induce, whether by threats, promises or otherwise, a person to contravene section 131A(1) or (2) or 131B(1); or

- (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of section 131A(1) or (2) or 131B(1); or
 - (f) conspiring with others to contravene section 131A(1) or (2) or 131B(1).
- (2) Without limiting subsection (1), the Supreme Court may grant an injunction under that subsection restraining a person from receiving or accepting, or facilitating the receiving or acceptance of, requests for a person to be provided with a commercial passenger vehicle service (whether or not as part of, or incidental to, the carrying on of another business)—
 - (a) for a specified period; or
 - (b) except on specified terms and conditions.
- (3) The Supreme Court may only grant an injunction under subsection (1) on an application by the TSC.
- (4) The power of the Supreme Court to grant an injunction under subsection (1) restraining a person from engaging in conduct may be exercised—
 - (a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of a kind referred to in that subsection; and
 - (b) whether or not the person has previously engaged in conduct of that kind; and

- (c) whether or not there is an imminent danger of substantial damage to any other person if the person engages in conduct of that kind.
- (5) The power of the Supreme Court to grant an injunction under subsection (1) requiring a person to do an act or thing may be exercised—
 - (a) whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and
 - (b) whether or not the person has previously refused or failed to do that act or thing; and
 - (c) whether or not there is an imminent danger of substantial damage to any other person if the person refuses or fails to do that act or thing.
- (6) On an application under subsection (1) the Supreme Court may grant an injunction by consent of all the parties to the proceeding, whether or not the Court is satisfied as required by that subsection.
- (7) If in the opinion of the Supreme Court it is desirable to do so, the Court may grant an interim injunction pending the determination of an application under subsection (1) but must not require the applicant or any other person to give any undertakings as to damages as a condition of doing so.
- (8) The Supreme Court may rescind or vary an injunction granted under this section."

38 Making of application

In section 132(1)(c) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" substitute "a booking service".

39 Mandatory refusal of accreditation

In section 132D(1)(ab) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" substitute "a booking service".

40 Presumption in favour of refusal of accreditation

In section 132E(c) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" substitute "a booking service".

41 Offence to fail to comply with conditions etc.

In the penalty at the foot of section 133B of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" substitute "a booking service".

42 Holder of accreditation to notify of relevant change in circumstances

In section 137A(4)(b) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" substitute "a booking service".

43 Regulations

In section 137E(2)(h) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" (where twice occurring) substitute "a booking service".

44 Offence to enter into certain contracts etc.

In section 144D of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" **substitute** "a booking service".

45 Licensing authority to be notified of maximum taxi fares and hiring rates in Regional and Country Zones

- (1) In section 162EA(3) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" **substitute** "a booking service".
- (2) In section 162EA(6) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" **substitute** "a booking service".

46 Register of commercial passenger vehicle industry participants

- (1) In the heading to Division 6A of Part VI of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi" **substitute** "commercial passenger vehicle".
- (2) In the heading to section 169ZA of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi" **substitute** "commercial passenger vehicle".
- (3) In section 169ZA(1) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi" **substitute** "commercial passenger vehicle".
- (4) In section 169ZA(2)(b) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" **substitute** "a booking service".

- (5) In section 169ZA(3)(b) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network service" **substitute** "booking service".
- (6) In section 169ZB(1) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi" **substitute** "commercial passenger vehicle".
- (7) In section 169ZC(1) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi" **substitute** "commercial passenger vehicle".

47 Definitions

In section 228RA of the **Transport (Compliance and Miscellaneous) Act 1983**—

- (a) in the definition of *accredited person*, in the example at the foot of paragraph (a), for "taxi-cab network service" **substitute** "booking service";
- (b) in the definition of *commercial passenger vehicle premises*, for "taxi-cab network services" **substitute** "booking services";
- (c) the definitions of *taxi-cab network service* and *taxi-cab network service provider* are **repealed**;
- (d) **insert** the following definition—

"booking service provider means a person who provides a booking service;"

48 Power to require production of information or documents and related items

In section 228RY(1)(b)(ii) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services" **substitute** "a booking service".

49 Supervisory intervention order

In section 230C(5)(c)(iv) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "taxi-cab network services (within the meaning of section 130A(1))" **substitute** "a booking service".

50 Exclusion orders

In section 230DA(2)(d) of the **Transport (Compliance and Miscellaneous) Act 1983**—

- (a) for "taxi-cab network service (within the meaning of section 130A(1))" **substitute** "booking service";
- (b) for "taxi-cab network service" (where secondly occurring) **substitute** "booking service".

Division 3—Commercial passenger vehicle service levy related amendments

51 Revocation or suspension of licence, permit or accreditation

- (1) After section 157(2A) of the **Transport (Compliance and Miscellaneous) Act 1983** **insert—**

"(2AB) Subject to subsection (3), the licensing authority, by notice in writing to an authority holder, may suspend or revoke the authority if satisfied, on the balance of probabilities, that the authority holder has contravened a requirement applying to the authority holder under—

- (a) Part 2 of the **Commercial Passenger Vehicle Industry Act 2017** or any regulations made under that Act for the purposes of that Part; or

(b) the **Taxation Administration Act 1997** as it applies to Part 2 of the **Commercial Passenger Vehicle Industry Act 2017** and any regulations made under the **Commercial Passenger Vehicle Industry Act 2017** for the purposes of that Part.

(2AC) In subsection (2AB)—

authority means licence, accreditation or permit mentioned in the definition of *authority holder*;

authority holder means the holder of a taxi-cab licence, hire car licence, taxi-cab operator accreditation, booking service provider accreditation, driver accreditation or a permit relating to a taxi-cab."

(2) In section 157(2B) of the **Transport (Compliance and Miscellaneous) Act 1983**, after "(2A)" **insert** "or (2AB)".

52 Definitions

In section 228RA of the **Transport (Compliance and Miscellaneous) Act 1983**, in the definition of *commercial passenger vehicle law*—

(a) in paragraph (d)(iv), for "surcharge;" **substitute** "surcharge; or";

(b) after paragraph (d) **insert**—

"(e) section 324 of the **Crimes Act 1958** to the extent that it relates to an offence against a provision mentioned in paragraph (a), (b) or (c);".

Division 4—Other amendments

53 Transfer of licences

Section 149(3A) and (3B) of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.

54 Repeal of section 150A

Section 150A of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.

55 Repeal of certain regulation making powers

Section 162(1)(ma) to (me) of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.

56 Repeal of provisions relating to working with children checks

Sections 169DA to 169DC of the **Transport (Compliance and Miscellaneous) Act 1983** are repealed.

57 Notice to holder of accreditation

(1) For section 169G(c) of the **Transport (Compliance and Miscellaneous) Act 1983** substitute—

- "(c) specifying that the holder may make a written submission under section 169H; and
- (d) specifying the date by which the submission must be received by the licensing authority."

(2) At the end of section 169G of the **Transport (Compliance and Miscellaneous) Act 1983** insert—

"(2) For the purposes of subsection (1)(d), the date by which the licensing authority must receive the submission is the date required under section 169H(3)(a)(i).

Note

Under section 169HA, the licensing authority may, by written notice, extend the period of time within which it must receive a submission. It can do so by choosing a date later than is specified in the notice."

58 Section 169H substituted and new section 169HA inserted

For section 169H of the **Transport (Compliance and Miscellaneous) Act 1983** substitute—

"169H Submissions to licensing authority

- (1) This section applies if a person receives from the licensing authority—
 - (a) a notice under section 169G; or
 - (b) a notice under section 169K(3).
- (2) The person may make a written submission to the licensing authority as to the matters set out in the notice.
- (3) A submission under subsection (2) must be received by the licensing authority—
 - (a) in the case where the person has received a notice under section 169G—
 - (i) no later than 28 days after the day on which the person receives the notice (if no date is specified by the licensing authority in the notice); or

- (ii) if the licensing authority specifies a date in the notice (which must be later than the date referred to in subparagraph (i)), no later than that date; or
 - (iii) if the licensing authority has extended the time within which the submission must be received under section 169HA, no later than the date specified in the notice under that section; and
- (b) in the case where the person has received a notice under section 169K(3), no later than 14 days after the day on which the person received the notice or if a later date has been specified by the licensing authority in that notice, that date.

169HA Licensing authority may extend time for making submissions

- (1) A person given a notice under section 169G may request the licensing authority to extend the time within which the licensing authority must receive a submission under section 169H to a date that is after the date specified under—
 - (a) section 169H(3)(a)(i); or
 - (b) the notice under section 169G.
- (2) An application must be in writing and set out the reasons for the request.
- (3) On receiving a request, the licensing authority, by written notice given to the person, may extend the time within which the licensing authority must receive the submission.

- (4) A notice under subsection (3) must specify the relevant date."

59 Interim suspension of accreditation

For section 169K(4) of the **Transport (Compliance and Miscellaneous) Act 1983** substitute—

- "(4) A notice under subsection (3) must—
- (a) set out the reasons for the suspension; and
 - (b) specify—
 - (i) that the holder of the driver accreditation may make a written submission under section 169H; and
 - (ii) the date by which the submission must be made under section 169H(3)."

60 Effect of decision on application

In section 169MB(2) of the **Transport (Compliance and Miscellaneous) Act 1983**, for "24 hours" substitute "2 business days".

61 New Subdivision 2 of Division 9A of Part VI inserted

After Subdivision 1 of Division 9A of Part VI of the **Transport (Compliance and Miscellaneous) Act 1983** insert—

"Subdivision 2—Regulatory exemptions

191B Exemptions

- (1) The TSC, by written notice, may exempt a person from a requirement under this Part or regulations made for the purposes of this Part if the TSC is satisfied that—

- (a) the person is substantially complying with the requirement; or
 - (b) the person has adequately achieved the purpose of the requirement; or
 - (c) the person's compliance with the requirement would, in the particular circumstances, be impracticable, unnecessary, or inappropriate.
- (2) An exemption may be either indefinite or for a specified period and either absolute or on specified conditions.
- (3) An exemption must not be inconsistent with any notice published in the Government Gazette under section 144(1BA) that is in effect.
- (4) The TSC may at any time suspend or cancel an exemption, or alter its period or its terms and conditions, by written notice given to the person given the exemption."

62 New note inserted into section 191YA

Insert the following note at the foot of section 191YA(1) of the **Transport (Compliance and Miscellaneous) Act 1983**—

"Note

A notice under subsection (1) may be given to a person accredited under Division 4 by serving it in accordance with section 250 or 251."

63 Repeal of section 191YC—service of documents

Section 191YC of the **Transport (Compliance and Miscellaneous) Act 1983** is repealed.

64 Information sharing

- (1) After section 191YD(2)(c) of the **Transport (Compliance and Miscellaneous) Act 1983** insert—

"(ca) information relating to the administration and enforcement of Part 2 of the **Commercial Passenger Vehicle Industry Act 2017**";

- (2) After section 191YD(5)(a) of the **Transport (Compliance and Miscellaneous) Act 1983** insert—

"(ab) the operation of section 191YDA; or"

- (3) In section 191YD(6) of the **Transport (Compliance and Miscellaneous) Act 1983**, in the definition of *relevant agency*, after paragraph (c) insert—

"(ca) the Commissioner of State Revenue; or"

65 New section 191YDA inserted

After section 191YD of the **Transport (Compliance and Miscellaneous) Act 1983** insert—

"191YDA Duty on Chief Commissioner of Police to notify TSC of certain matters relating to offences

- (1) The Chief Commissioner of Police must take all reasonable steps to ensure that the TSC—
- (a) is notified as soon as practicable after the Chief Commissioner becomes aware that a notifiable person has been charged with—
 - (i) a category 1 offence, category 2 offence or category 3 offence; or

- (ii) a tier 1 offence, tier 2 offence or tier 3 offence (within the meaning of Division 4); and
 - (b) is given the details in respect of the charge requested by the TSC.
- (2) The TSC may only request details of a charge referred to in subsection (1) that it reasonably requires to exercise its functions under this Part.
- (3) The Chief Commissioner of Police must take all reasonable steps to ensure that the TSC is notified as soon as practicable of how a charge for an offence referred to in subsection (1) has been finally dealt with.
- (4) In this section—
notifiable person means—
 - (a) a person accredited under Division 4; or
 - (b) a person who has applied for accreditation under Division 4; or
 - (c) a person who holds a driver accreditation; or
 - (d) a person who has applied for a driver accreditation."

66 Offence to assault or obstruct officers etc.

In section 225(1) of the **Transport (Compliance and Miscellaneous) Act 1983**, in the definition of *officer*, in paragraph (a), after "Corporation" **insert** ", the Taxi Services Commission".

67 Evidentiary provision amendments

In section 230(4) of the **Transport (Compliance and Miscellaneous) Act 1983**—

- (a) after "Roads Corporation" (where twice occurring) **insert** "or the chief executive officer of the Taxi Services Commission";
- (b) after "that Corporation" **insert** "or an employee of that Commission".

68 Insertion of notes relating to electronic service

- (1) **Insert** the following note at the foot of section 250 of the **Transport (Compliance and Miscellaneous) Act 1983**—

"Note

Service may also be effected electronically—see the **Electronic Transactions (Victoria) Act 2000**".

- (2) **Insert** the following note at the foot of section 251 of the **Transport (Compliance and Miscellaneous) Act 1983**—

"Note

Service may also be effected electronically—see the **Electronic Transactions (Victoria) Act 2000**".

Division 5—Repeal of this Part

69 Repeal of this Part

This Part is **repealed** on 30 June 2019.

Note

The repeal of this Part does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Part 4—Amendment of other Acts

Division 1—Transport Integration Act 2010

70 Application to a transport body

(1) After section 24(2) of the **Transport Integration Act 2010** insert—

"(2A) Subsections (1) and (2) do not apply to a transport body when it is exercising a power or performing a function for or in relation to—

- (a) the grant, issue or giving of a transport authorisation; or
- (b) the renewal of a transport authorisation; or
- (c) the amendment or variation of, or change to, a transport authorisation or any conditions to which a transport authorisation is subject; or
- (d) the suspension of a transport authorisation; or
- (e) the cancellation of a transport authorisation; or
- (f) the revocation of a transport authorisation or any condition to which a transport authorisation is subject."

(2) After section 24(5) of the **Transport Integration Act 2010** insert—

"(6) In this section—

transport authorisation means a licence, an accreditation, a permit, a permission, an exemption or a registration under transport legislation."

71 Constitution of Taxi Services Commission

In section 115H(2) of the **Transport Integration Act 2010**, for "2" substitute "3".

Division 2—Bus Safety Act 2009

72 Definitions

In section 3(1) of the **Bus Safety Act 2009**, in the definition of *bus*, in paragraph (d) omit "subject to section 23,".

73 Repeal of section 23

Section 23 of the **Bus Safety Act 2009** is repealed.

Division 3—Road Safety Act 1986

74 Power to inspect motor vehicles and trailers

(1) In section 13(6)(b) of the **Road Safety Act 1986**, for "section." substitute "section; or".

(2) After section 13(6)(b) of the **Road Safety Act 1986** insert—

"(c) if the motor vehicle is, or the trailer is attached to a motor vehicle that is, a commercial passenger vehicle (within the meaning of Part VI of the **Transport (Compliance and Miscellaneous) Act 1983**), an employee of the Taxi Services Commission authorised in writing by the Commission for the purposes of this section."

Division 4—Taxation Administration Act 1997

75 Meaning of taxation laws

After section 4(1)(a) of the **Taxation Administration Act 1997** insert—

"(aba) Part 2 of the **Commercial Passenger Vehicle Industry Act 2017** and any regulations made under that Act for the purposes of that Part;"

76 Offset of refund against other liability

After section 20A(6) of the **Taxation Administration Act 1997** insert—

"(7) This section does not apply in respect of a liability arising under Part 2 of the **Commercial Passenger Vehicle Industry Act 2017**."

77 Permitted disclosures to particular persons or for particular purposes

After section 92(1)(e)(iib) of the **Taxation Administration Act 1997** insert—

"(iic) the Taxi Services Commission (established by section 115B of the **Transport Integration Act 2010**) for the purpose of administering Part 2 of the **Commercial Passenger Vehicle Industry Act 2017** and any regulations made under that Act for the purposes of that Part; or"

78 Criminal liability of officers of bodies corporate—failure to exercise due diligence

After section 130B(2)(a) of the **Taxation Administration Act 1997** insert—

"(ab) section 14(1) of the **Commercial Passenger Vehicle Industry Act 2017** is specified;"

79 Supreme Court—limitation of jurisdiction

After section 135(5) of the **Taxation Administration Act 1997** insert—

"(6) It is the intention of sections 5, 12(4), 18(1), 96(2) and 100(4), as they apply on and after the commencement of section 79 of the **Commercial Passenger Vehicle Industry Act 2017**, to alter or vary section 85 of the **Constitution Act 1975**."

Division 5—Repeal of this Part

80 Repeal of this Part

This Part is **repealed** on 30 June 2019.

Note

The repeal of this Part does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 23 February 2017

Legislative Council: 9 March 2017

The long title for the Bill for this Act was "A Bill for an Act to impose a levy on the provision of commercial passenger vehicle services, to amend the **Transport (Compliance and Miscellaneous) Act 1983**, the **Transport Integration Act 2010**, the **Bus Safety Act 2009**, the **Road Safety Act 1986** and the **Taxation Administration Act 1997** and for other purposes."

The **Commercial Passenger Vehicle Industry Act 2017** was assented to on 22 August 2017 and came into operation as follows:

Sections 1–8, 53–74, 80 on 23 August 2017: section 2(1); sections 9–52, 75–79 not yet proclaimed.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

There are no amendments made to the **Commercial Passenger Vehicle Industry Act 2017** by Acts and subordinate instruments.

3 Amendments Not in Operation

This publication does not include amendments made to the **Commercial Passenger Vehicle Industry Act 2017** by the following Act/s.

Commercial Passenger Vehicle Industry Act 2017, No. 35/2017

<i>Assent Date:</i>	22.8.17
<i>Commencement Date:</i>	Ss 69, 80 on 23.8.17: s. 2(1)
<i>Note:</i>	S. 69 repeals Pt 3 (ss 21–69) on 30.6.19; s. 80 repeals Pt 4 (ss 70–80) on 30.6.19
<i>Current State:</i>	This information relates only to the provision/s amending the Commercial Passenger Vehicle Industry Act 2017

At the date of this publication, the following provisions amending the **Commercial Passenger Vehicle Industry Act 2017** were Not in Operation:

Amending Act/s:

Commercial Passenger Vehicle Industry Act 2017, No. 35/2017

69 Repeal of this Part

This Part is **repealed** on 30 June 2019.

Note

The repeal of this Part does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

80 Repeal of this Part

This Part is **repealed** on 30 June 2019.

Note

The repeal of this Part does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

4 Explanatory details

No entries at date of publication.