



New South Wales

Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Passenger Transport Act 1990*:

- (a) to transfer to that Act provisions relating to ticketing and conduct offences of persons on trains and other railway premises from the *Rail Safety Act 2008*, and
- (b) to include provisions enabling a “smartcard” ticketing system to be introduced on trains, buses and ferries, and
- (c) to make other amendments relevant to the enforcement of those provisions.

The *Rail Safety Act 2008* will be repealed in due course as part of the implementation of a national scheme dealing with rail safety which does not cover the matters that are to be transferred by this Bill.

The Bill also amends other legislation consequentially.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Passenger Transport Act 1990 No 39

Ticketing and conduct offences

Schedule 1 [16] and [17] amend section 63 of the Act to include in the regulation-making powers contained in that section matters relating to ticketing (including smartcard ticketing) and conduct offences in relation to trains and other railway premises.

Schedule 1 [2] amends section 3 of the Act to include definitions relevant to those regulation-making powers, such as a definition of *railway premises* based on the definition in the rail safety national law which includes (among other things) trains and rail infrastructure.

Schedule 1 [15] inserts proposed section 57 into the Act to provide that, if a court convicts a person of an offence against the regulations relating to railway premises or monorail premises and is satisfied that the conduct in question caused or could have caused appreciable danger or harm to persons, animals, premises or property, the court can impose a maximum penalty of 250 penalty units rather than the penalty provided by the regulations for the offence. This takes account of the fact that the maximum penalty that can currently be imposed for offences against the regulations under the Act is 50 penalty units whereas the maximum penalty that can currently be imposed for an offence against the regulations under the *Rail Safety Act 2008* is 250 penalty units.

Schedule 1 [3], [18] and [19] make consequential amendments.

Enforcement powers

Schedule 1 [1] amends the definition of *authorised officer* in section 3 (1) of the Act to include a police officer. Currently, an authorised officer has to be appointed by a transport regulator. **Schedule 1 [4], [8] and [11]–[13]** make consequential amendments.

Schedule 1 [5] substitutes section 46I of the Act to include, in the powers of an authorised officer to enter premises, a power to enter railway premises. A similar power is currently contained in section 85 of the *Rail Safety Act 2008*.

Schedule 1 [6], [7] and [9] amend sections 46R and 46W of the Act to make provision for the appointment of authorised officers in relation to rail passenger services and railway premises.

Schedule 1 [10] amends section 55 of the Act to include, in the power of an authorised officer to require a person to state his or her name and address in circumstances where the officer reasonably suspects that an offence against the Act or the regulations has been committed, a power to make such a requirement in relation to graffiti offences on railway premises. A similar power is currently

contained in section 104 of the *Rail Safety Act 2008*. **Schedule 1 [14]** makes a consequential amendment.

Savings and transitional provisions

Schedule 1 [20] amends Schedule 3 to the Act to enable regulations of a savings and transitional nature to be made consequent on the enactment of the proposed Act.

Schedule 1 [21] amends Schedule 3 to the Act to include a specific savings and transitional provision in relation to the *Rail Safety (Offences) Regulation 2008*.

Schedule 2 Amendment of other legislation

Schedule 2 amends the *Rail Safety Act 2008* to remove provisions that will now be covered by the provisions inserted in the *Passenger Transport Act 1990* by Schedule 1. The Schedule also makes a consequential amendment to the *Transport Administration Act 1988*.

First print



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Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012

No. , 2012

A Bill for

An Act to amend the *Passenger Transport Act 1990* in relation to ticketing matters with respect to travel on trains and the regulation of the conduct of persons on railway premises; to amend other legislation consequentially; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Passenger Transport Amendment (Ticketing and Passenger Conduct) Act 2012</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1	Amendment of Passenger Transport Act 1990 No 39	1
		2
[1]	Section 3 Definitions	3
	Insert “or a police officer” after “section 46W” in the definition of <i>authorised officer</i> in section 3 (1).	4
		5
[2]	Section 3 (1)	6
	Insert in alphabetical order:	7
	<i>railway premises</i> has the same meaning as in the Rail Safety National Law set out in the Schedule to the <i>Rail Safety National Law (South Australia) Act 2012</i> of South Australia, but does not include any railway premises to which that Law does not apply.	8
		9
		10
		11
	<i>smartcard</i> means an authority to travel on a passenger transport vehicle or train that is of a type prescribed by the regulations.	12
		13
	<i>smartcard reader</i> means a device of a type prescribed by the regulations that is designed to enable the reading of information recorded on a smartcard.	14
		15
		16
	<i>train</i> has the same meaning as in the Rail Safety National Law set out in the Schedule to the <i>Rail Safety National Law (South Australia) Act 2012</i> of South Australia, but does not include any train to which that Law does not apply.	17
		18
		19
		20
[3]	Section 3 (1A)	21
	Insert after section 3 (1):	22
	(1A) A reference in this Act to a train or to railway premises includes a reference to any vehicle being used by the operator of a rail passenger service for the carriage of passengers in connection with that service.	23
		24
		25
		26
[4]	Section 46BB Chief Investigator and transport safety investigator’s functions	27
	Insert “in his or her capacity as an authorised officer” after “authorised officer” in section 46BB (6).	28
		29
		30

[5] Section 46I	1
Omit the section. Insert instead:	2
46I Power of entry	3
(1) An authorised officer may enter the following premises:	4
(a) any premises (other than any premises, or a part of any premises, that are used as a dwelling) that the officer reasonably suspects are being used for the purposes of a public passenger service, a taxi-cab network (as defined in section 29A) or for the keeping of records for any such purposes,	5 6 7 8 9 10
(b) railway premises.	11
(2) Entry may be made only at the following times:	12
(a) any reasonable hour in the daytime,	13
(b) any hour during which a public passenger service or rail passenger service is in operation or other related activity is in progress or is usually carried out in or on the premises,	14 15 16
(c) any other hour that the premises are otherwise open for entry.	17 18
[6] Section 46R Authority to enter	19
Omit “the person” from section 46R (1).	20
Insert instead “the authorised officer”.	21
[7] Section 46R (2)	22
Omit “the regulator” wherever occurring.	23
Insert instead “the person who appointed the authorised officer”.	24
[8] Section 46W Appointment of authorised officers	25
Insert “appointed under this section” after “authorised officer” in section 46W (4).	26 27
[9] Section 46W (6) and (7)	28
Insert after section 46W (5):	29
(6) TfNSW may appoint a member of staff of TfNSW, or a person of a class prescribed by the regulations, to be an authorised officer in relation to rail passenger services and railway premises.	30 31 32
(7) Any person appointed as an authorised officer under subsection (6) may exercise the functions of an authorised officer	33 34

	under this Act only in so far as those functions relate to rail passenger services and railway premises.	1 2
[10]	Section 55 Offenders to state name and address	3
	Omit section 55 (1). Insert instead:	4
	(1) A person may be required to state his or her full name and residential address by an authorised officer if the authorised officer:	5 6 7
	(a) reasonably suspects the person to be committing or to have committed an offence against this Act or the regulations, or	8 9
	(b) reasonably suspects the person to be committing or to have committed an offence against the <i>Graffiti Control Act 2008</i> on railway premises, or	10 11 12
	(c) finds the person in circumstances that lead, or has information that leads, the officer reasonably to suspect the person has committed such an offence.	13 14 15
[11]	Section 55 (2) (a)	16
	Omit “a police officer or”. Insert instead “an”.	17
[12]	Section 55 (3)	18
	Omit “police officer or” where firstly occurring.	19
[13]	Section 55 (3) (b)	20
	Omit the paragraph. Insert instead:	21
	(b) identified himself or herself as an authorised officer or, in the case of an authorised officer who is a police officer, as a police officer.	22 23 24
[14]	Section 55 (4)	25
	Insert after section 55 (3):	26
	(4) The authorised officer may also request the person to provide evidence of the correctness of the stated name or required address if the authorised officer reasonably suspects the stated name or address is false.	27 28 29 30

[15] Section 57	1
Insert after section 56:	2
57 Additional penalties for railway offences affecting safety	3
(1) This section applies to an offence committed on or in relation to railway premises or any station, platform, monorail running line or supporting column associated with a monorail transport system.	4 5 6 7
(2) If a court that convicts a person for an offence against the regulations is satisfied that the offence was committed in circumstances of aggravation, the court may impose a penalty for the offence not exceeding 250 penalty units.	8 9 10 11
(3) For the purposes of this section, <i>circumstances of aggravation</i> are that the actions of the offender that constituted the offence:	12 13
(a) caused or contributed to appreciable danger or harm to any persons, animals, premises or property, or	14 15
(b) were reasonably likely to cause or contribute to such danger or harm (whether or not any such danger or harm was actually caused).	16 17 18
[16] Section 63 Regulations	19
Omit section 63 (2) (d), (i)–(k), (n)–(p), (v), (aa), (ee) and (hh)–(jj).	20
[17] Section 63 (2)	21
Insert in appropriate order:	22
(d) the regulation or prohibition of eating, drinking or smoking in public passenger vehicles and on trains and other railway premises, and	23 24 25
(i) the conduct of persons (including drivers) in or on public passenger vehicles, trains and other railway premises, and	26 27
(ia) prohibiting persons from travelling on, or attempting to travel on, a passenger transport vehicle or train without holding an appropriate ticket or other form of authority, and	28 29 30 31
(j) the powers and duties of drivers of public passenger vehicles or trains and of authorised officers, including (but not limited to) requiring the handing over of tickets and other authorities to travel for examination, and	32 33 34 35
(k) the authority of drivers of buses, other public passenger vehicles or trains, and of authorised officers, to eject persons guilty of any contravention of the regulations, and	36 37 38

(ka)	the exclusion of persons, animals or freight from railways, and	1 2
(kb)	trespass on railways, and	3
(n)	the taking up or setting down of passengers or other matters incidental to the transport of passengers on public passenger vehicles or trains, and	4 5 6
(o)	the carriage of passengers' luggage or other goods, and animals, on public passenger vehicles or trains, and	7 8
(p)	the regulation or prohibition of the carriage of passengers standing in or on any part of a public passenger vehicle or train, and	9 10 11
(v)	the imposition of penalties for the failure, neglect or refusal by a passenger of a public passenger vehicle or train to pay the appropriate fare or for leaving the public passenger vehicle or railway premises before paying the appropriate fare, and	12 13 14 15 16
(aa)	the custody and return of property left in public passenger vehicles or on trains or other railway premises, the payment of compensation for any such property and the disposal or sale of any such property not claimed and the time of any such disposal or sale, and	17 18 19 20 21
(ee)	the erection and display of signs and notices for the guidance of the drivers of public passenger vehicles or trains and the public, and	22 23 24
(hh)	the sale of tickets and other types of authority to travel on public passenger vehicles or trains and the conditions under which tickets and such types of authority must be sold, and	25 26 27 28
(ii)	the granting of free or concession passes for travel on public passenger vehicles or trains, and	29 30
(jj)	the terms and conditions to which tickets, smartcards and other authorities to travel on public passenger vehicles or trains are subject, and	31 32 33
(kk)	the use of smartcards and smartcard readers and the testing and certification of smartcard readers, and	34 35
(ll)	without limiting paragraph (kk), the admission of information obtained by smartcard readers, and of certificates relating to that information and to the testing of smartcard readers, as evidence (including conclusive	36 37 38 39

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Schedule 1 Amendment of Passenger Transport Act 1990 No 39

	evidence) in legal proceedings relating to an offence against the regulations, and	1
	(mm) generally as to the regulation and control of public passenger vehicles and trains, their drivers and passengers, railway premises and persons on railway premises.	2
[18]	Section 63 (3)	3
	Omit “any person or vehicle or any class of persons or vehicles”.	4
	Insert instead “any person, vehicle, train, public passenger service or rail passenger service or any class of persons, vehicles, trains, public passenger services or rail passenger services”.	5
[19]	Section 63 (5)	6
	Insert after section 63 (4):	7
	(5) The regulations may apply, adopt or incorporate (with or without changes) any publication as in force at a particular time or as in force from time to time.	8
[20]	Schedule 3 Savings and transitional provisions	9
	Omit clause 2 (1). Insert instead:	10
	(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.	11
[21]	Schedule 3, Part 13	12
	Insert after Part 12:	13
	Part 13 Provision consequent on enactment of Passenger Transport Amendment (Ticketing and Passenger Conduct) Act 2012	14
	70 Rail Safety (Offences) Regulation 2008	15
	On and from the repeal of section 131 of the <i>Rail Safety Act 2008</i> by the <i>Passenger Transport Amendment (Ticketing and Passenger Conduct) Act 2012</i> , the <i>Rail Safety (Offences) Regulation 2008</i> is taken to have been made under this Act and may be amended or repealed accordingly.	16

Schedule 2	Amendment of other legislation	1
2.1	Rail Safety Act 2008 No 97	2
[1]	Section 104 Power to direct name and address be given	3
	Omit “or the <i>Graffiti Control Act 2008</i> ” wherever occurring in section 104 (1) (a) and (b).	4 5
[2]	Section 131 Railway offences	6
	Omit the section.	7
[3]	Section 132 Proceedings for offences	8
	Omit “(other than offences under a regulation made under section 131)” from section 132 (3).	9 10
[4]	Schedule 3 Savings, transitional and other provisions	11
	Insert at the end of clause 1 (1):	12
	<i>Passenger Transport Amendment (Ticketing and Passenger Conduct) Act 2012</i>	13 14
[5]	Schedule 3, Part 3	15
	Insert after Part 2:	16
Part 3	Provision consequent on enactment of Passenger Transport Amendment (Ticketing and Passenger Conduct) Act 2012	17 18 19 20
21	Proceedings for offences	21
	The amendment of section 132 by the <i>Passenger Transport Amendment (Ticketing and Passenger Conduct) Act 2012</i> does not affect its operation in relation to proceedings for offences committed, or alleged to have been committed, before the repeal of section 131 and any such proceedings may continue to be dealt with as if section 132 had not been so amended.	22 23 24 25 26 27

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Schedule 2 Amendment of other legislation

2.2 Transport Administration Act 1988 No 109	1
Section 70 Payments into RailCorp Fund	2
Omit “section 131 of the <i>Rail Safety Act 2008</i> ” from section 70 (d).	3
Insert instead “the <i>Passenger Transport Act 1990</i> ”.	4