

Passenger Transport Amendment (Transitways) Bill 2001

Explanatory note

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

Overview of Bill

The object of this Bill is to provide for the operation of public passenger services offering bus transportation along routes to be known as transitway routes. Some transitways will be constructed by the Government, others created from upgraded existing roads. Transitway services will be provided by contracted operators.

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.

Clause 3 is a formal provision giving effect to the amendments to the *Passenger Transport Act 1990* set out in Schedule 1.

Schedule 1 Amendments

Definitions

Schedule 1 [2] inserts definitions of *emergency route*, *transitway route* and *transitway service* into section 3 of the Act. **Schedule 1 [1]** makes a consequential amendment to the definition of *public passenger service*.

Division of the provisions of Part 3 of the Act

Schedule 1 [3], [5] and [10] divide the existing provisions of Part 3 of the Act into Divisions, as follows:

Division 1 consists of section 16 of the Act, which requires persons operating regular passenger services to be the holders of service contracts entered into with the Director-General, Department of Transport.

Division 2, consisting of proposed new section 16A and existing sections 17–28, will apply to service contracts for regular passenger services in general, but with the exception of transitway services.

Division 3, consisting of proposed sections 28A–28D, will apply exclusively to service contracts for transitway services.

Division 4, consisting of proposed sections 28E–28I, will provide for the creation and variation of transitway routes, the creation of emergency routes and ancillary matters.

Schedule 1 [4] and [6]–[9] make consequential amendments.

Service contracts for transitway services

Proposed Division 3 of Part 3, inserted by **Schedule 1 [10]**, contains the following provisions:

Proposed section 28A states that the Division applies exclusively to service contracts for transitway services.

Proposed section 28B provides that service contracts for transitway services may be entered into for terms not exceeding 10 years.

Proposed section 28C requires service contracts for transitway services to provide for performance standards to be observed by the operator.

Proposed section 28D provides that a service contract for a transitway service may, if the

contract so provides, be renewed.

Transitway descriptions and routes

Proposed Division 4 of Part 3, inserted by **Schedule 1 [10]**, contains the following provisions:

Proposed section 28E defines *transitway description* and other terms used in the Division. A transitway description is a general designation (listed in Schedule 4 to the Act, inserted by **Schedule 1 [16]**) of the destinations that may be linked by a transitway route (for example, “Liverpool to Parramatta”). A transitway route or routes may be determined anywhere between those destinations.

Proposed section 28F provides for amendment by regulation of the transitway descriptions for the time being listed in Schedule 4 to the Act.

Proposed section 28G provides for the determination, variation and abolition of transitway routes by order of the Director-General, Department of Transport.

Proposed section 28H provides for the determination of emergency routes by order of the Director-General. These are short-term alternative routes available for transitway services while the transitway route is closed owing to some pressing necessity such as urgent road maintenance.

Proposed section 28I describes the effect of the creation of a transitway route or emergency route on the regions or routes of existing operators of regular bus services. When a transitway route is created (by initial determination or by variation of an existing transitway route), it is excluded from the region or route of operation of any existing regular bus service contract within which it lies. Any existing right of the contractor to operate a service along a route that has become the transitway route is extinguished for as long as the transitway route exists. While an emergency route exists, any existing right of a contractor to use the same route, which is currently (under section 21 of the Act) an exclusive right, ceases to be exclusive. The status quo ante as to rights is, however, restored if the transitway is abolished or moved or, in the case of rights affected by an emergency route, when the route’s designation expires.

Regulations

Schedule 1 [11] and **[12]** amend section 63 of the Act (the general regulation-making power) to allow regulations to be made concerning ticketing on regular passenger services, and in particular the issue of tickets enabling travel on services provided by different operators, and to allow the operation of regulations to be extended to transitways.

No right to compensation arising from introduction of transitway services

Schedule 1 [13] inserts a new section 65 into the Act, which provides that compensation is not payable as a result of the introduction of transitway services and bars legal proceedings that would seek to prevent things from being done, or to obtain compensation arising from things done, under or in connection with the amendments proposed by the Bill in relation to transitway services.

Transitional provisions

Schedule 1 [14] and **[15]** provide for the transitional operation of amendments made by the proposed Act and allow further provision of that kind to be made by regulation.