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Roads and Maritime Notices

Roads and Maritime Services

NSW Vehicle Monitoring Device Exemption Order 2017

I, Paul Endycott, General Manager, Compliance Operations, Roads and Maritime Services, pursuant to section 158 of the *Road Transport Act 2013* and clause 55 of the Road Transport (General) Regulation 2013, make this Order.

Paul Endycott
General Manager, Compliance Operations

Dated this 8th day of March 2017

PART 1 – PRELIMINARY

Explanatory note:

The object of this Order is to exempt buses (and any driver or responsible person for any such bus) from the requirement under the *Road Transport Act 2013* to ensure that a monitoring device is fitted to the bus. The Order applies to buses that are used to carry out services under a current and valid Passenger Service Contract with Transport for NSW.

In addition, this Order applies where a bus that is normally used to carry out services under a Passenger Service Contract is used (by the same operator) to deliver a charter service, *but only* where the charter journey is no greater than within a 100km radius from the garage address of the bus.

This Order is made under section 158 of the *Road Transport Act 2013* and clause 55 of the Road Transport (General) Regulation 2013.

1 Name of Order

This Order is the ***NSW Vehicle Monitoring Device Exemption Order 2017***

2 Commencement

This Order has effect on and from the date of publication in the NSW Government Gazette.

3 Effect

This Order remains in force up to and including 30 March 2020 unless it is revoked earlier.

4 Interpretation

Words and expressions used in this Order have the same meaning as in the *Road Transport Act 2013* and Road Transport (General) Regulation 2013 unless otherwise stated.

5 Definitions

In this Order:

Accredited bus operator means a bus operator that holds an accreditation under Part 2 of the Passenger Transport Act 1990

bus means:

- (a) a motor vehicle that seats more than 12 adults, or
- (b) a vehicle of any class prescribed by regulations under the *Passenger Transport Act 2014* for the purposes of the definition.

bus service means a public passenger service provided by a bus and includes a community transport service that provides transport by bus.

charter service means a public passenger service provided by a bus where:

- (a) the provision of the service is pre-booked for hire for an agreed fee and individual fares are not payable by the passengers to the operator or driver, and
- (b) the hirer is entitled to determine the route for the journey and the time of travel, and
- (c) all passengers' journeys have a common origin or common destination, or both, and
- (d) the service is not provided in accordance with a fixed schedule.

Community transport service means the transport, by a vehicle, of specified individuals or specified classes of individuals under a community transport agreement entered into by the operator of the service with Transport for NSW.

Public passenger service means the transport, by a motor vehicle, vessel, aircraft, train, or other vehicle prescribed by the regulations to the *Passenger Transport Act 2014* for the purposes of this definition, of passengers within, or partly within, New South Wales for a fare. A community transport service is also a public passenger service for the purposes of this Order.

Passenger Service Contract means a contract between Transport for NSW and a bus operator under the *Passenger Transport Act 2014* or the *Passenger Transport Act 1990* for the provision of a public passenger service (including a school bus service) conducted according to regular routes and timetables.

Note: 'responsible person', 'GVM' and 'garage address' are defined in the *Road Transport Act 2013*

PART 2 – APPLICATION of ORDER

6 Vehicles and persons to which this Order applies

- 6.1 This Order applies to a bus (and any driver or responsible person for the bus) which is used to provide public passenger services conducted according to regular routes and timetables under a Passenger Service Contract between the accredited bus operator and Transport for NSW.
- 6.2 This Order also applies to a bus (and any driver or responsible person for the bus) used by an accredited bus operator who is a party to a Passenger Service Contract, and where the bus is being used to provide charter services where the charter journey is within a 100km radius from the garage address of the bus. This includes bus services operating as community transport services.

- 6.3 This Order applies to a bus when it is used as a school bus to transport children from home to school and back under a Passenger Service Contract.
- 6.4 This Order applies to buses, drivers and responsible persons for buses whether or not:
- (a) the buses are registered in this jurisdiction, or
 - (b) the drivers hold driver licences issued in this jurisdiction, or
 - (c) the responsible persons ordinarily reside (or, being corporations, are incorporated or have their principal places of business) in this jurisdiction.

7 Exclusions

- 7.1 This Order does not apply to any vehicle, driver or responsible person for a vehicle where
- (a) the vehicle is a bus conducting a charter service where the journey takes the bus outside a 100km radius from the garage address of the bus.
 - (b) The vehicle is a bus that is not used under a Passenger Service Contract from time to time
 - (c) The operator of the bus ceases to be an accredited bus operator or ceases to hold a Passenger Service Contract
 - (d) The vehicle is any vehicle other than a bus which has a GVM exceeding 13.9 tonnes
- 7.2 This Order does not exempt any vehicle, driver or responsible person from any provisions of the *Road Transport Act 2013* other than those in Part 6.1, and does not provide any exemption from provisions or obligations under any other legislation, for instance the *Heavy Vehicle National Law (NSW)* or the *Passenger Transport Act 2014*.