

Guide Category C



Passenger Transport Operator

Accreditation Guide - Category C

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- *Passenger Transport Services Act 2011*; and
- *Taxi and Hire Vehicle Industries Act 2008*.

This legislation is available at: www.thelaw.tas.gov.au

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Readers are referred to the online self-assessment tool available at www.transport.tas.gov.au/passenger/operators/accreditation for further assistance regarding whether they are required to hold accreditation. If necessary readers should seek their own independent, professional advice.

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Passenger Transport Operator

Accreditation Guide

PART 1: OVERVIEW

Section 1:

The Passenger Transport Services Act 2011

What is the Passenger Transport Services Act?

On 1 July 2013 the *Passenger Transport Services Act 2011* replaced the *Passenger Transport Act 1997* as the legislation governing the operation of passenger transport services in Tasmania.

The Passenger Transport Services Act sets a framework for ensuring that passenger transport services are safe, and that transport operators are accountable for the safety and security of their service. This is primarily achieved through the operation of the Passenger Transport Operator Accreditation Scheme.

Does the Act apply to me?

There are three circumstances in which the Act does not apply. They are:

1. Personal private use of a motor vehicle

If you use your motor vehicle solely for **personal private use**, the Act does not apply to you.

Personal private use of a vehicle is when a person carries members of their family or friends in the vehicle. It includes times when the passengers contribute to the costs of the transport (e.g. petrol money) or do some of the driving.

If you are not sure whether your transport is personal private use, you are advised to refer to section 6 of the Passenger Transport Services Act and to seek independent legal advice as necessary.

2. Services not available to the public

If the transport you are providing is:

- a. undertaken in a motor vehicle that has nine or fewer **seats*** (including the driver's seat); and
- b. available only to a restricted group of people (such as a club, society or sporting organisation); and
- c. not available to the general public,

the Act does not apply to you.

If you are not sure whether your transport fits within this category, you are advised to refer to section 7 of the Passenger Transport Services Act and to seek independent legal advice as necessary.

** Please refer to the Glossary for a definition of a **seat** and **seating capacity**, as if your vehicle has been modified to remove seats, and has been newly registered on or after 1 July 2013, the original manufactured seating capacity (rather than the actual seating capacity) may be relevant for assessing the number of seats in the vehicle.*

3. Incidental passenger services

If you are operating what is referred to as an **"incidental passenger service"**, the Act does not apply to you. Incidental services are:

- Private car-pooling arrangements using in a vehicle that has nine or fewer **seats*** (including the driver's seat)
- Passengers being carried in or on a motorised buggy or similar vehicle within the precincts of:
 - a golf course, sports ground or other sporting venue;
 - a tourist attraction;
 - a hotel;
 - an industrial complex; or
 - an aerodrome
- Passengers being carried in or on a vehicle that is configured as and used solely as a float in a Christmas parade or other community pageant
- Passengers being carried in or on a vehicle that is configured as and used solely as a novelty vehicle, such as a toy train in a public park

If you are not sure whether your transport is an incidental service, you are advised to refer to section 8 of the Passenger Transport Services Act and to seek independent legal advice as necessary.

What is a passenger transport service?

You are considered to be operating a passenger transport service if you are operating a:

- vehicle with 10 or more seats on a public street for the purpose of carrying passengers, regardless of whether the passengers are paying a fare or whether the service is available to members of the public;
- taxi;
- luxury hire car; or
- restricted hire vehicle.

Section 2:

Passenger Transport Operator Accreditation

What is accreditation?

Passenger Transport Operator Accreditation is intended to ensure that passenger transport services are operated safely and securely, and that the people providing these services are fit and proper people to be doing so. It is also intended to ensure that the operator of a passenger transport service is accountable for the operation of the service.

Accreditation means that you have been acknowledged as having in place processes and systems that will ensure acceptable standards in terms of the safety of the service you intend to provide.

Accreditation is a legal requirement. It is compulsory for people and businesses that are providing a **passenger transport service** if the Act applies to them (refer to Section 1).

It is also compulsory for people and businesses that are operating a **hire and drive passenger service**.

Do I need an operational licence for my service?

The only passenger transport services that require a licence are passenger transport services operated with a small passenger vehicle. These services are:

- taxis (including wheelchair-accessible taxis);
- luxury hire cars; and
- restricted hire vehicles (general and specific).

These services, including the requirement for an operator to hold a relevant licence, are regulated in the *Taxi and Hire Vehicle Industries Act 2008* and the associated regulations.

You cannot operate a passenger transport service using a small passenger vehicle unless you hold one of these licences and operate the service under the authority of the licence.

Services operated using a large passenger vehicle, and services operated using a small passenger vehicle that are not passenger transport services do not require a licence.

How many types of accreditation are there?

There are two types of accreditation:

- Passenger Transport Operator Accreditation
- Hire and Drive Passenger Services Operator Accreditation

There are no longer different categories of accreditation for different types of service, so you do not need to apply for separate accreditation to operate a taxi service, a bus service and so on.

However, you need to ensure that you include the parts of the accreditation modules that are relevant to the type of service that you operate as some modules vary between service types.

Further, there may be additional requirements that are not connected to accreditation that you must meet to operate some services. For example if you want to operate:

- A taxi, luxury hire car or restricted hire vehicle service, you will need the appropriate licence or licences.
- A regular passenger service, you must be authorised by the Transport Commission to do this.

If I operate two different types of service do I need to be accredited for both?

Yes. If you operate both a passenger transport service and a hire and drive passenger service, you will need to hold both types of accreditation.

However, if you hold Passenger Transport Operator accreditation and you hire out your vehicles to another accredited operator who will be using the vehicles to provide their own passenger transport service, you do not have to hold hire and drive accreditation as well.

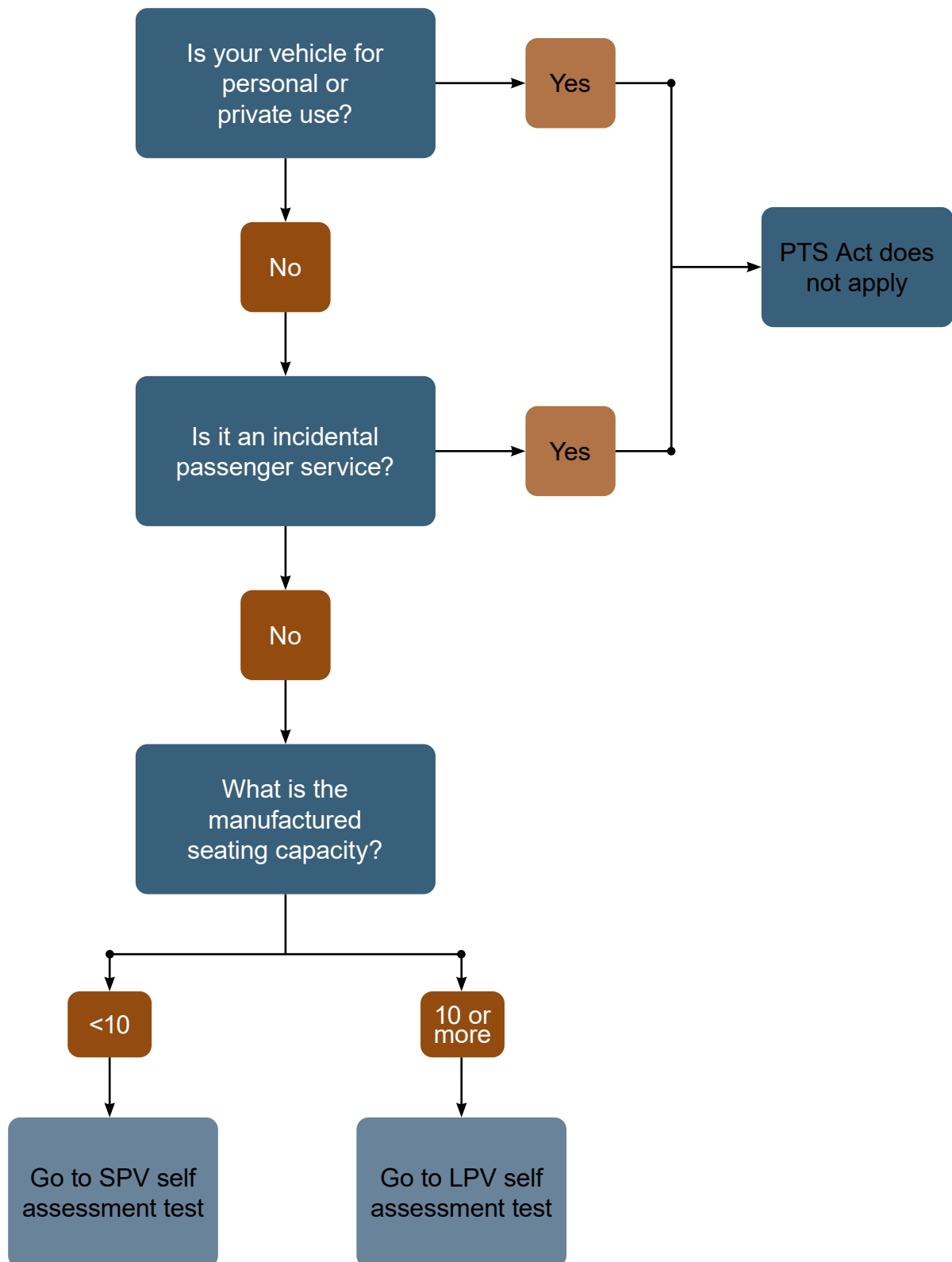
How many vehicles may I operate?

There is no limit to the number of vehicles you may operate under accreditation, but you must be accredited for the correct type of service you wish to operate (i.e. passenger transport service and/or hire and drive).

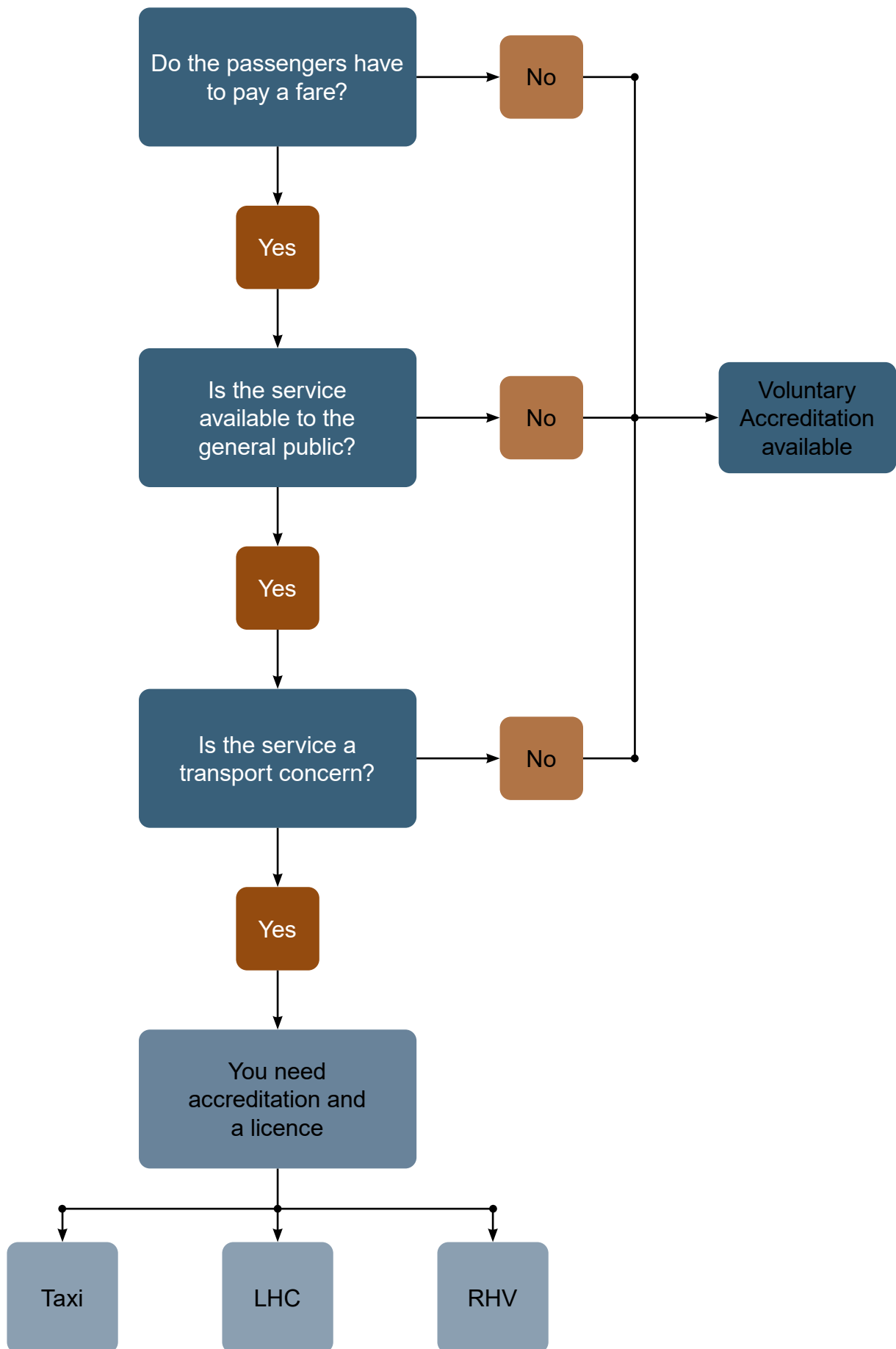
You may only operate one vehicle at any given time under the authority of a single taxi, luxury hire car or restricted hire vehicle licence. However, you may hold multiple licences for these services and operate a vehicle under the authority of each licence.

Section 3:

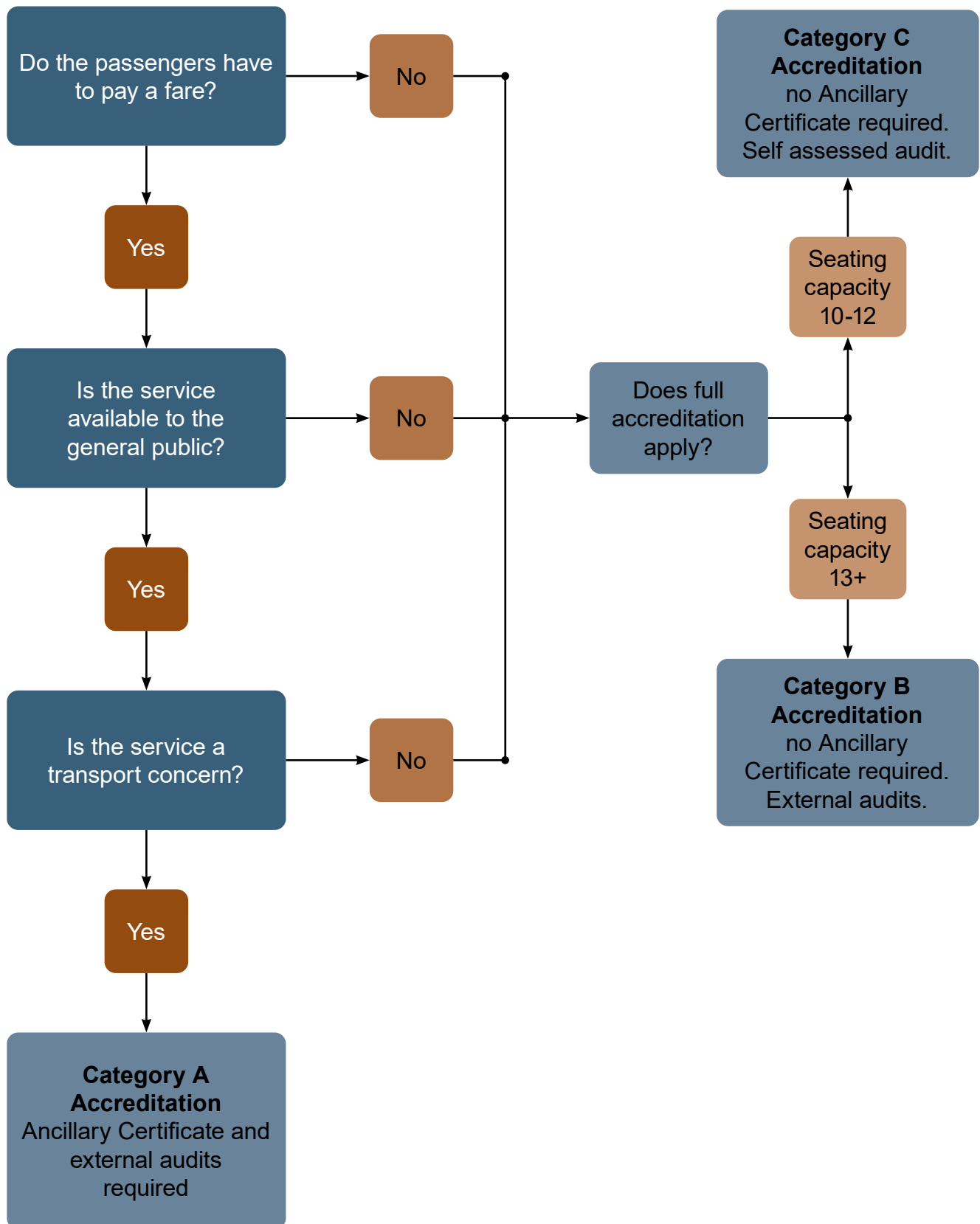
Who Has To Be Accredited?



SPV Self Assessment Test



LPV Self Assessment Test



Who has to be accredited?

If the Passenger Transport Services Act does not apply to you (see Section 1), you do not have to be accredited. If you are unsure about whether the Act applies to you, you can refer to the self-assessment tool available at <http://www.transport.tas.gov.au/passenger/operators> for further assistance. If necessary you should seek your own independent, professional advice.

If you are providing a **passenger transport service** and the Act applies to you (refer to Section 1), you must be accredited as shown below.

You must also be accredited if you are operating a **hire and drive passenger service**. A hire and drive passenger service is a service where a vehicle is hired out, without a driver, for the carriage of passengers. This includes dual cab utilities and campervans and mobile homes.

Hire vehicles used to carry goods (such as single-cab utilities, vans and trucks) are not passenger vehicles. Operators of services that hire out solely these types of vehicles do not have to hold hire and drive passenger service operator accreditation

Incidental transport services do not require accreditation, as the Act does not apply to them.

These are outlined in Section 1.

Fines of up to \$26,000 for organisations and \$13,000 for individuals apply for operating a passenger transport service or a hire and drive passenger service without holding accreditation.

Who can be accredited?

Accreditation can be held by an individual, or by one of the following types of bodies:

- a partnership;
- an incorporated body; or
- an unincorporated body.

Accreditation cannot be in the name of a body that is not listed above.

Can I transfer my accreditation to another operator?

No. Accreditation is not transferrable to another person or another organisation.

Type of service	Number of seats (including the driver)		
	9 or fewer	10-12	13 or more
Service meets all parts of the 3-part test <ul style="list-style-type: none">• <i>Ancillary Certificates required for all drivers</i>• <i>External audit</i>	Category A accreditation <ul style="list-style-type: none">• Taxi• Luxury hire car• Restricted hire vehicle	Category A accreditation <ul style="list-style-type: none">• Taxi (WAT)• Bus	Category A accreditation
Service does not meet all parts of the 3-part test <ul style="list-style-type: none">• <i>Ancillary Certificates not required</i>	Not a passenger transport service. May apply for voluntary accreditation (self-assessment audit)	Category C accreditation (self-assessment audit)	Category B accreditation (external audit)

Section 3A:

Large Passenger Vehicles

What is a large passenger vehicle?

A large passenger vehicle is a vehicle with 10 or more seats. See the Glossary for further information.

What are the categories of accreditation for large passenger vehicles?

Service meets three-part test

If your passenger transport service meets the three components of the three-part test (below), and the vehicle you are using has 10 or more seats you will require **Category A operator accreditation** for your service. Category A accreditation applies if:

- the passengers (or any of them) have to pay a fare; and
- the service is available to any member of the public; and
- the service is a transport concern (see below).

What is a transport concern?

A passenger service is considered to be a transport concern if the service is operated by a business or undertaking as:

- the sole activity of the business or undertaking;
- one of the main activities of the business or undertaking; or
- an integral or indispensable part of the sole or one of the major activities of the business or undertaking.

A passenger service is not a transport concern if the service is an incidental, occasional or dispensable addition to the business's sole activity or main activities. This is explained further in the Glossary.

If you are unsure of whether your business is a transport concern, you should seek independent legal advice regarding section 11(3) of the Passenger Transport Services Act.

Service does not meet three-part test

If any one (or more) of the components of the three-part test do not apply to your passenger transport service and you are operating a large passenger

vehicle, the category of accreditation depends on the size of your vehicle.

- If one or more parts of the three-part test do not apply to your service and the vehicle has **13 or more seats**, you are required to hold **Category B operator accreditation**. Your drivers are not required to hold an Ancillary Certificate, but you must undergo external audits.
- If one or more parts of the three-part test do not apply to your service and the vehicle has **10, 11 or 12 seats**, you are required to hold **Category C operator accreditation**. Your drivers are not required to hold an Ancillary Certificate and you may undertake self-assessment audits rather than undergo external audits.

If you operate a hire and drive service with large passenger vehicles, you must hold **hire and drive passenger service operator accreditation**.

The only exception to this requirement is if you already hold Passenger Transport Operator accreditation and you hire out your vehicles to another accredited operator who will be using the vehicles to provide their own passenger transport service.

Section 3B:

Small Passenger Vehicles

What is a small passenger vehicle?

A small passenger vehicle is a vehicle with nine or fewer seats. See the Glossary for further information.

What is a passenger transport service?

A small passenger vehicle is deemed to be operating a passenger transport service if it is being used on a public street to carry passengers and all three components of the three-part test apply to the service as outlined below:

- any of the passengers have to pay a fare; and
- the service is available to members of the public; and
- the service is a "transport concern", defined below.

This is limited to taxi services, luxury hire car services and restricted hire vehicle services.

You cannot operate a passenger transport service with a small passenger vehicle unless you are operating it under the authority of a taxi licence, a luxury hire car licence or a restricted hire vehicle licence. (Refer to section 91E of the *Taxi and Hire Vehicle Industries Act 2008*.)

What is a transport concern?

A passenger service operating with a small passenger vehicle is considered to be a transport concern if the service is:

- the sole activity of a business or organisation;
- one of the main activities of a business or organisation; or
- an integral or indispensable part of the sole or major activities of a business or organisation.

A passenger service is not a transport concern if the service is an incidental, occasional or dispensable addition to the business's activities that the business does not depend on to operate.

This is explained further in the Glossary.

If you are unsure of whether your service is a transport concern you should seek independent legal advice regarding section 11(3) of the Passenger Transport Services Act.

If your service is a transport concern and the other two components of the three-part test above also apply to your service (i.e. the passengers have to pay a fare and the service is available to the general public), you can only operate the service if it is a taxi, luxury hire car or restricted hire vehicle service.

When is accreditation required for a small passenger vehicle?

If you are operating a taxi, luxury hire car or restricted hire vehicle service, you are required to hold **Category A passenger transport services accreditation**.

If the vehicle is used to provide a hire and drive service, you must hold **hire and drive passenger services operator accreditation**.

If your service is not a passenger transport service (i.e. if one or more of the components of the three-part test do not apply to your service), you do not have to be accredited, but you may apply for voluntary accreditation for your service.

Section 3C: Operators Not Requiring Full Accreditation

This section only applies to:

- *Passenger transport services provided in a large passenger vehicle where at least one component of the three-part test does not apply; and*
- *Services provided in a small passenger vehicle that are not passenger transport services (i.e. not taxi, luxury hire car or restricted hire vehicle services).*

What were the exemptions for accreditation for community transport providers?

Some "community transport" organisations that operated vehicles with fewer than 13 seats did not previously have to be accredited, due to a temporary exemption from the requirement for their vehicles to be registered as public passenger vehicles in Regulation 6A of the *Passenger Transport Regulations 2000*.

This exemption applied to services provided by

- a) A not-for-profit organisation that is funded entirely or partially by any of the following or a combination of any of the following –
 - i. the Commonwealth;
 - ii. the State;
 - iii. a council
- b) An organisation that is, or is entitled to be, endorsed by the Australian Taxation Office as a charitable or benevolent institution
- c) A council
- d) The Crown

From 1 July 2013 these temporary exemptions no longer apply in respect of vehicles that have 10, 11 or 12 seats. These services will now have to hold Category C operator accreditation. This means that organisations may self-assess rather than undergo an external audit, and the drivers are not required to hold Ancillary Certificates.

Organisations using vehicles with nine seats or fewer (as manufactured), are not required to be accredited, provided that their service does not meet all three parts of the three-part test, (that is, they are not providing a passenger transport service). They may choose voluntary accreditation.

My service did not have to be accredited before 2013. Does it have to be accredited now?

Whether or not you have to be accredited from 1 July 2013, and the type of accreditation required, depends on the number of seats the vehicle providing the service has, and whether it is a new vehicle (registered from 1 July 2013) or is already registered.

Currently registered vehicles

The number of seats will be taken to be the number of seats after modification of the vehicle – that is, the number of seats currently recorded in the Motor Vehicle Registry in respect of the vehicle.

New (not previously registered) vehicles

For any new vehicles that you purchase from 1 July 2013 that have not been previously registered in Tasmania, the number of seats will be taken to be the number of seats that the vehicle was manufactured with, or the number of seats it has after modification, whichever is greater. Therefore, if a vehicle has had seats removed, the number of seats for determining the size of the vehicle will be the number of seats it was manufactured with.

If the vehicle has:

- **Nine (9) or fewer seats** (including the driver's seat):

You do not have to be accredited, and your drivers are not required to hold Ancillary Certificates, but you may choose to obtain accreditation voluntarily.

- **10, 11 or 12 seats** at the time of manufacture (including the driver's seat)

You must hold Category C operator accreditation. Your drivers are not required to hold Ancillary Certificates. You may undertake self-assessment audits.

- **13 seats or more** (including the driver's seat)

You must hold Category B operator accreditation. Your drivers are not required to hold Ancillary Certificates and you must undergo external audits.

Does my club have to be accredited to operate its vehicle?

Large passenger vehicle

If your club or organisation is operating a **large passenger vehicle** to transport its members on public roads, this is deemed to be a passenger transport service, and the club or organisation must be accredited to operate the vehicle.

The type of accreditation the organisation has to hold will depend on the nature of the service and the size of the vehicle.

Nature of the service

If at least one of the following statements is true of your service, the club is required to be accredited, but your drivers will not require Ancillary Certificates:

- the service is not available to the general public and/or
- the passengers do not have to pay a fare and/or
- the service is not a transport concern (i.e. the transport is not the sole or a main activity of the club – refer to the Glossary for further explanation of this).

The type of accreditation your service is required to hold depends on the size of the vehicle you are operating.

Size of vehicle

If the vehicle has:

- **10, 11 or 12 seats**, you will have to hold Category C operator accreditation. This means that you do not need to engage an external auditor to undertake your audits.
- **13 or more seats**, you will have to hold Category B operator accreditation and undergo external audits.

Small passenger vehicle

If your club or organisation is operating a **small passenger vehicle** (that is, a vehicle with nine or fewer seats, including the driver's seat) and the service is only available to members of the club or organisation and not to the general public, the Act does not apply to this service, so the club or organisation would not have to be accredited. You may choose to obtain voluntary accreditation.



What is voluntary accreditation?

Operators that do not have to be accredited in order to operate their service – that is, services operated with a small passenger vehicle where one or more components of the three-part test do not apply – may apply for voluntary accreditation if they wish to do so.

Under voluntary accreditation, drivers are not required to hold Ancillary Certificates and operators may undergo a self-assessment audit instead of an external audit.

Voluntary accreditation uses the standard Passenger Transport Operator Accreditation

Manual, and the same Audit Checklist used by external auditors applies for self-assessments (see page 20). The same audit schedule applies to voluntary accreditation as applies to other passenger transport service operators (see page 20).

If I operate both large and small vehicles, do I have to be accredited?

Yes. While technically the small vehicles may be excluded from the mandatory accreditation requirements, it would be good business practice to include all of your vehicles within the one system.

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Passenger Transport Operator

Accreditation Guide

Part 2: Applying For Operator Accreditation Category C

Application for Accreditation Category C
can be found at the end of this guide

Section 4:

Applying For Accreditation Category C

How do I apply for accreditation?

The first thing you need to do is go to the link below and complete the self-assessment tool. This will guide you through the rest of the application process and most importantly identify the category of accreditation that will apply to you or your organisation.

www.transport.tas.gov.au/passenger/operators/accreditation

Once you have completed the self-assessment you will be in a position to commence putting together your application 'package' that is relevant to the category of accreditation identified by the assessment tool.

The relevant Application Guide containing an application form and is accessible at the completion of the assessment tool.

You may then apply to the Transport Commission for accreditation.

It is now assumed you have done the assessment tool and require Category C accreditation.

This section applies to operators of the following services:

- Non-commercial services operated using a vehicle with 10, 11 or 12 seats
- Services (that are not passenger transport services) operated using a small passenger vehicle, where the operator wishes to apply for voluntary accreditation.

You must not begin to operate your service until you have completed all the requirements for accreditation your application has been approved and you have been issued with an Accreditation Certificate.

Before you can be accredited there are certain things you **must** do. If you have not completed these things, your application will not be considered:

1. Complete an application for accreditation
 - If you are an organisation, business or partnership, appoint a Responsible Person.
2. Obtain a National Police Certificate
3. Download a copy of the Passenger Transport Operator Accreditation Manual which contains the details of the relevant accreditation modules and guidance of the systems you will need to put in place

Put the systems that are relevant to your services in place

Passenger Transport Service Voluntary Accreditation	Category C Accreditation
General Administration	General Administration
Vehicle Management	Vehicle Management
Driver Administration	Driver Administration

4. You must undertake a self-assessment of your systems to determine whether they meet the Accreditation Standards. In conducting your self-audit you must use the same Audit Checklist used by external auditors. You will be able to indicate on this form that you have conducted a self-assessment. The checklist is available from www.transport.tas.gov.au/passenger/operators
You may engage an auditor to conduct this audit if you wish to do so. However you will have to pay for the audit yourself.
Once you are satisfied that your systems meet the Accreditation Standards, you must submit your self-audit report for consideration.
5. Lodge your application 'package' at Service Tasmania and pay the application fee
6. Please Note: You will receive an email from the Commission advising that your application has been received and will be considered within the 28 day maximum period. It is not necessary to contact the Department of State Growth (here on in, known as 'the Department') for this period of time
7. If your application 'package' does not contain all the required information you will be advised by letter, including what you need to do before it can be considered. The 28 day period does not start until the Commission has received all the information it requires

Responsible Person

If your application for accreditation is for

- a body politic (e.g. a Government agency, public school, council etc);
- a partnership;
- an incorporated body; or
- an unincorporated body.

You must appoint an individual aged over 18 years as your organisation's **Responsible Person** for the purposes of accreditation. (Section 18 of the *Passenger Transport Services Act 2011*.) You must nominate the Responsible Person in your application for accreditation.

If your application for accreditation is in your own name, you will be taken to be the Responsible Person. You cannot nominate another Responsible Person for the purpose of your accreditation.

The person you appoint will depend on the type of organisation your business is, as shown below:

Type of organisation	Responsible person
Government body	A member or senior employee
Partnership	One of the partners
Incorporated body	An officer or an employee
Unincorporated body	A member

The Responsible Person's role is to:

- be the primary contact for the Department regarding the safety, security and other matters relating to your service;
- oversee the day to day safety, security and related matters in respect of your service; and
- be responsible for ensuring that your business complies with the requirements of the Accreditation Scheme and relevant legislation.

The Responsible Person may delegate any of the duties they have to perform under the legislation or the accreditation scheme to another person, such as an employee of the organisation, or a third party from outside the organisation. However, the Responsible Person is legally responsible for ensuring that the duties are carried out in accordance with the law. The Responsible Person is the person that the Commission will contact with regards to any non-compliance. The Responsible Person can be fined if the organisation fails to comply with the requirements of accreditation.

Obtain a National Police Certificate

The Responsible Person must obtain a current National Police Certificate. You can get an application form for a Certificate from a *Service Tasmania* shop or police station or download a form from <http://www.police.tas.gov.au/services-online/police-history-record-checks/>

A fee applies for this Certificate.

You must submit the original certificate (or a certified copy) to the Department as part of your application. Your application will not be processed if you do not submit a current National Police Certificate. A National Police Certificate is current if it is submitted to Department within 90 days of the date on the certificate.

You should keep a copy of the certificate for your records. The Department will return the original certificate to you.

All applicants must obtain a National Police Certificate. If the application for accreditation is for a business, the nominated Responsible Person must obtain a National Police Certificate.

Good Character Checks or personal references previously obtained by or for other institutions, persons, agencies (Government or otherwise), or National Police Checks or Certificates obtained from an internet-based facility or website (other than as downloaded from the Tasmania Police website above) will not be accepted.

Put systems in place

Before your application for accreditation can be considered, you will need to show that you have procedures and systems in place so that you can meet the Accreditation Standards on an on-going, day-to-day basis.

The Accreditation Standards are divided into three modules, which are set out in the Accreditation Manual.

Module 1: General Administration

This includes record keeping, and ensuring that you keep the Department up to date with the contact details and other details about your service.

Module 2: Vehicle Management and Administration

This includes regular inspections, a fault reporting system and emergency management procedures.

Module 3: Driver Management and Administration

This includes checks you need to undertake before you engage a driver, records you need to keep, and ongoing monitoring of driver qualifications. It also includes procedures that drivers need to be aware of, including passenger behaviour management, complaints management and emergency management.

Undergo an audit

Voluntary accreditation

This section applies to operators of the following services:

- Service provided with a large passenger vehicle with 10, 11 or 12 seats, where at least one component of the three-part test does not apply
- Service (that is not a passenger transport service) operated using a small passenger vehicle, where the operator wishes to apply for voluntary accreditation

You must undertake a self assessment of your systems to determine whether they meet the Accreditation Standards. You must undertake a self assessment of your systems to determine whether they meet the Accreditation Standards. The Self-audit Checklist at the Department's website at <http://www.transport.tas.gov.au/passenger/operators>

You may engage an auditor to conduct this audit if you wish to do so. However you will have to pay for the audit yourself.

Once you are satisfied that your systems meet the Accreditation Standards, you must submit your self-audit report to the Department so that your application can be assessed.

Are there any exemptions?

Interstate operators

The Transport Commission may grant an exemption to an interstate passenger transport service operator if the Commission is satisfied that the operator is accredited under a corresponding law of another State or Territory and operating primarily out of that other State or Territory. This is only the case if the Commission is satisfied that the requirements for the interstate accreditation are substantially similar to those in Tasmania.

To apply for an exemption from accreditation, you will need to complete an application for exemption.

If you hold interstate accreditation and your circumstances change, or the Commission determines that your service is being operated within or from Tasmania, the exemption will no longer apply and you will need to apply for Tasmanian accreditation in order to continue operating your service in Tasmania.

On what grounds can an application be refused?

The Passenger Transport Services Act sets out the reasons for which the Transport Commission may refuse an application for accreditation.

These reasons are if the Commission determines that:

- the applicant is not fit and proper;
- the nominated Responsible Person is not a fit and proper person to fulfil that role; or
- the applicant is not able to meet the relevant safety, security and other standards that are required under the accreditation scheme.

The Commission may determine that an applicant (or a nominated Responsible Person) is not fit and proper if they:

- have been convicted of a serious offence (see Glossary);
- have been convicted of an offence in another State or Territory that would be classed a serious offence (see Glossary) if it had been committed in Tasmania;
- have a history of non-compliance in relation to previous accreditation;
- have a history of non-compliance in relation to the *Taxi and Hire Vehicle Industries Act 2008*; or
- are disqualified from driving for reasons including reckless or negligent driving, committing an indictable offence using a motor vehicle, stealing a motor vehicle or obtaining a motor vehicle by fraudulent means.

If your application for accreditation is refused, you have a right to have this decision reviewed under the Passenger Transport Services Act.

What are conditions of accreditation?

The Commission may place conditions on your accreditation. The majority of these conditions will apply to all accredited operators and include requirements to:

- undergo regular compliance audits as outlined in this Guide; and
- provide the Commission with regular updated National Police Certificates.

However, the Commission may also place other conditions (or vary existing conditions) on the accreditation of individual operators. For example, you may be required to undertake more regular vehicle inspections than is required by the Accreditation Standards, or undergo more regular audits.

What are service, security and operational standards?

The service, security and operational standards relating to accreditation (the Accreditation Standards) are contained in the Accreditation Manual. They are the minimum standards expected of all passenger transport service and hire and drive passenger service operators, and include requirements to:

- keep relevant records relating to your service;
- ensure that your vehicles are safe and inspected regularly; and
- where relevant, ensure that your drivers are appropriately qualified and suitable people to be driving your vehicles.

If you can demonstrate that you are doing everything you are required to do as outlined in the Accreditation Manual, you can expect to be assessed as complying with the minimum Accreditation Standards.

What is an accreditation certificate?

If your application for accreditation is approved, the Commission will issue you with an accreditation certificate. This certificate will specify the details of your business, the service that you are accredited to operate and the conditions of your accreditation.

You must keep this certificate in a secure and readily accessible place. You must also keep a copy of the certificate in every vehicle that your service operates.



Passenger Transport Service Category C Voluntary Accreditation

Initial systems audit	On application for accreditation
Initial compliance audit	No later than 12 months after date of approval of accreditation
Supplementary compliance audit	N/A
Ongoing compliance audit and current National Police Certificate to be obtained	No later than three years after date of approval of accreditation and further audits three yearly there after.

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Passenger Transport Operator

Accreditation Guide

Part 3: Maintaining Accreditation

Section 5:

Maintaining Your Accreditation

Does my accreditation expire?

No. Accreditation is perpetual and there is no need to renew your accreditation.

What do I have to do to maintain my accreditation?

As part of the **conditions of accreditation**, all accredited operators must undergo regular compliance audits and Responsible Persons must reapply for their National Police Certificate every three years. This will ensure that the service continues to comply with the Accreditation Standards.

Obtain a National Police Certificate

The Responsible Person must obtain a current National Police Certificate. You can get an application form for a Certificate from a *Service Tasmania* shop or police station or download a form from <http://www.police.tas.gov.au/services-online/police-history-record-checks/>

These requirements are **conditions of accreditation** and you must comply with these conditions (refer to *What happens if I don't comply with accreditation conditions* below for further information).

When do I have to undergo accreditation audits?

After you have obtained accreditation for the first time, your service will have to undergo a series of compliance audits for the first three years, as shown below:

- Following the initial three years, your service will have to undergo further ongoing compliance audits **every three years**.

You (or your service's Responsible Person) will have to supply a current a National Police Certificate at each ongoing compliance audit.

What is a regular compliance audit?

Operators that hold the following types of accreditation:

- Category C operator accreditation
- Voluntary accreditation

may either perform a self-assessment audit, or engage an accreditation auditor at their own expense.

The checklist is available from www.transport.tas.gov.au/passenger/operators Once you are satisfied that your systems meet the Accreditation Standards, you must submit your self-audit report to the Department.

Obtain a "National Police Certificate" information from Page 17.

What is the timing for the audits?

The **due date** for submitting a successful audit report is based on the date of the original approval of your accreditation (the accreditation date). The due date is 28 days prior to the relevant anniversary of your accreditation date, according to the audit schedule for your service, as shown in the example below.

The Department will send you a reminder of the due date approximately 60 days prior to the due date. It will be your responsibility to ensure you have completed your self assessed audit and submitted it before your due date.

Once you are satisfied that your systems meet the Accreditation Standards, you must submit your self-audit report to the Department

After the Department has received the audit report, provided that it is satisfactory, your accreditation will be confirmed and you will be issued with a new accreditation certificate.

Failure to provide evidence of compliance

If either of the following things happen, your accreditation will not be confirmed and you may not be able to not operate your service under the authority of your accreditation until the outstanding issues are resolved and a new accreditation certificate has been issued:

- The Department does not receive a satisfactory audit report or a new National Police Certificate by the due date (28 days prior to the accreditation date).
- The Commission deems that your audit report is not satisfactory.

You should take this into account when engaging your auditor and applying for your National Police Certificate to ensure that you allow sufficient time for the relevant documents to be prepared and forwarded to the Department.

If you are voluntarily accredited and you fail to submit a report of your self-assessment compliance audit, you will no longer be recorded as being accredited. However, as your accreditation is voluntary, you may continue to operate the service.

Are my vehicle inspection reports monitored?

The Department receives copies of all vehicle inspection reports from roadworthiness inspections conducted by Approved Inspection Stations.

If you present a vehicle for inspection with faults that should have been identified and repaired through your own vehicle management program, or if one of your vehicles is found on the road with a defect, the Commission may contact you for an explanation of why you allowed the vehicle to operate in such a condition. The Commission will also require you to explain what you will be doing in the future in regard to vehicle management, to ensure that all of your vehicles are operating in such a condition that they would pass inspection at any time.

If the Commission is not satisfied with your response, you may be required to undergo a triggered audit (see below).

What is a triggered audit?

If the Commission has reason to believe that you are no longer complying with the Accreditation Standards, you may be required to undergo a triggered audit outside the regular compliance audit cycle to demonstrate that your systems are adequate.

This could be because of failures of your vehicles at inspections or defects identified at on-road vehicle inspections, allegations of breaches of legislation by your drivers or customer complaints about areas of your service that fall within the Accreditation Standards.

You must engage an authorised auditor to conduct a triggered audit and you will have to pay for the audit yourself.

If the audit identifies problems with your systems or procedures you will be required to address these and undergo a re-audit before the auditor will provide you with a new audit certificate.

If you fail to address these issues, or if there are continued instances where it appears that you are not complying with the Accreditation Standards (for example, numerous failures of your vehicles at the regular inspections), the Commission can suspend or cancel your accreditation, or impose probationary status on your accreditation.

What happens if I don't comply with accreditation conditions?

It is an offence to contravene (or fail to comply with) conditions of accreditation or to cause or allow another person to do this. If a Responsible Person contravenes or fails to comply with the organisation's conditions of accreditation, they will be personally responsible for this.

There are a range of penalties and sanctions that the Commission may apply if you fail to comply with the conditions of accreditation. The Commission may:

- suspend your accreditation;
- cancel your accreditation;
- impose probationary status on your accreditation; or
- impose or vary the conditions of your accreditation.

If your accreditation is suspended or cancelled, or if the Commission imposes probationary status or additional conditions on your accreditation, you have a right to have this decision reviewed under the Passenger Transport Services Act.

Example accreditation timing	
Passenger Transport Category C or Voluntary Accreditation	
Accreditation date	19 March 2013
Due date for initial compliance audit	28 days prior to 12 months after the accreditation date 19 February 2014
Due date for supplementary compliance audit	N/A
Due date for ongoing compliance audit and current National Police Certificate to be obtained	28 days prior to 3 years after the accreditation date 20 February 2016

You may also be prosecuted for failing to comply with the conditions of accreditation. Fines range from a maximum of \$6,500 for an individual operator or an organisation's responsible person to a maximum of \$13,000 for a body corporate or body politic.

How is voluntary accreditation enforced?

Operators who hold voluntary accreditation may self-assess their own compliance with the Accreditation Standards, or they may engage an external auditor if they wish to do so.

Provided that these operators continue to submit notification that they have successfully undergone an audit (either self-assessed or external) to the Department every three years, their accreditation will be current. If they fail to do so, they will no longer be recorded as being accredited, but as accreditation is not mandatory, they will still be able to operate their service.

Voluntary accreditation is considered to be a means to assist these operators achieve a high level of safety and security in relation to their service, should they see this as an appropriate way to do this.

When would the Transport Commission cancel or suspend an operator's accreditation?

The Passenger Transport Services Act sets out the circumstances under which the Commission may suspend or cancel an operator's accreditation, or impose probationary status on their accreditation.

These include if the operator:

- contravenes or fails to comply with the conditions of accreditation (as explained above);
- contravenes the Accreditation Standards (as outlined in the Accreditation Manual);
- fails to present their vehicles for regular inspections;
- operates a service that their accreditation does not authorise them to operate (e.g. if a hire and drive operator started to operate a passenger transport service without obtaining the correct accreditation for this);
- does not have a Responsible Person when they are required to have one;
- fails to pay fees charged by the Commission; or
- does not provide information that the Commission has asked them for.

The Commission may also suspend or cancel an operator's accreditation (or impose probationary status on the accreditation) if the Commission determines that

- the operator is no longer fit and proper to hold accreditation;
- the Responsible Person is no longer fit and proper to hold that position;
- the operator is engaging drivers who are not fit and proper to drive vehicles providing passenger transport services; or
- there are other compelling reasons that are directly related to the operator's capacity and competence to implement the relevant standards, manage the relevant risks and be held accountable for any deficiencies in the safety or security of the service.

What is probationary status on an operator's accreditation?

Where an operator gives the Commission evidence to form a view that an operator is not meeting the Accreditation Standards, the Commission may impose probationary status on that operator's accreditation.

Probationary status enables the operator to continue to provide a transport service, but their performance will be monitored by the Commission. This might include being required to report to the Commission on relevant elements of their service, more regular vehicle inspections, triggered audits and so on.

Further evidence of unsatisfactory standards, or a breach of the legislation, may lead to the Commission suspending the operator's accreditation.

Glossary

Passenger Transport Services Act 2011

The legislation governing the operation of passenger transport services in Tasmania. Referred to as the Passenger Transport Services Act or PTS Act.

Responsible Person

Individual aged over 18 years appointed under section 18 of the Passenger Transport Services Act for the purposes of accreditation of a body politic, a partnership, an incorporated body or an unincorporated body. This person is responsible for ensuring that the organisation complies with the relevant legislation and accreditation conditions. If they delegate some of the duties to another employee or agent, the Responsible Person is still legally responsible for ensuring that the duties are carried out according to the law.

Transport Commission

The Transport Commission (the Commission) is the body responsible for administering the Passenger Transport Services Act and other related legislation. In practice most of the Transport Commission's functions, powers and duties are delegated to officers within the Department.

Accreditation certificate

Certificate issued by the Commission acknowledging that an operator is accredited in respect of the passenger transport service(s) or hire and drive passenger service that they are operating.

Accreditation Standards

The minimum standards that the operator of a passenger transport service must meet in order to become and remain accredited. These are outlined in the Accreditation Manual.

Conditions of accreditation

Conditions that the operator of a passenger transport service must comply with in order to remain accredited. They may apply to all operators (e.g. the audit schedule) or may be imposed on individual operators' accreditation (e.g. more frequent audits).

Initial systems audit

Audit of a service's systems and processes undertaken to support an operator's application for accreditation and confirm that the service complies with the Accreditation Standards.

Compliance audit

Regular audit of an accredited operator's service's systems to confirm that the service continues to comply with the Accreditation Standards.

There are three kinds of compliance audit:

- *Initial compliance audit*: undertaken 12 months after the initial systems audit (six months for taxi operators)
- *Supplementary compliance audit*: for taxi operators only, undertaken 18 months after the initial systems audit
- *Ongoing compliance audit*: undertaken three years after the initial systems audit and then every three years

Triggered audit

Audit undertaken outside the regular audit program, at the instruction of the Commission, when there are concerns about the capacity of an operator's service to comply with the Accreditation Standards.

Voluntary accreditation

Accreditation held by a person, business, partnership or other organisation that is not required under the Act to be accredited, but chooses to obtain accreditation.

Three-part test

For services operated with **large passenger vehicles** the three-part test assesses the type of accreditation that applies.

- A service operated with a large passenger vehicle (10 or more seats) requires Category A operator accreditation if the answer to all three questions is "yes".
- A service operated with a large passenger vehicle (13 or more seats) requires Category B operator accreditation if the answer to at least one of the questions is "no".
- A service operated with a large passenger vehicle (10, 11 or 12 seats) requires Category C operator accreditation if the answer to at least one of the questions is "no".

For services operated with **small passenger vehicles** this test assesses whether the service is a passenger transport service for the purposes of the Act, or whether it is not a passenger transport service, in which case the PTS Act does not apply.

- A service operated with a small passenger vehicle is a passenger transport service only if the answer to all three questions is "yes".

The three-part test asks the following three questions:

- Do any of the passengers have to pay a fare?
- Is the service available to members of the general public?
- Is the service a "transport concern"? (see page 26)



Transport concern

A passenger service is considered to be a transport concern if the service is operated by a business or undertaking as:

- the sole activity of the business or undertaking;
- one of the main activities of the business or undertaking; or
- an integral or indispensable part of the sole activity or of one of the main activities of the business or undertaking.

A passenger service is not a transport concern if the service is an incidental, occasional or dispensable addition to the business's sole activity or its main activities.

If there is any question or dispute regarding whether a service is a transport concern, the Commission can make a binding determination. In determining whether a particular passenger service is primarily a transport concern, the Commission may have regard to –

(a) whether passenger transport is the primary purpose or main focus of the service operator; and

(b) whether the service has more of a commercial focus (being operated for profit in its own right) or a goodwill focus (being provided as a courtesy for the patrons or guests of the service operator, and where no charge is made for the service itself); and

(c) whether the service operator advertises or presents itself as, or in any other way purports to be, a passenger transport entity; and

(d) whether the service operator advertises or presents the service as a dedicated passenger transport service or as a service that is ancillary to another activity; and

(e) whether the service operator could still engage in its main or primary activities without operating the service, directly or at all; and

(f) the scale and value of the resources used for the service relative to those used for other activities, if any, of the service operator; and

(g) the scale, frequency and nature of the service and the scale and nature of associated materiel, equipment and facilities; and

(h) relevant motor vehicle ownership and leasing arrangements; and

- (i) the antecedents of the service operator and, if applicable, the nature of any relevant business, or corporate, relationships; and
- (j) such other factors as the Commission reasonably considers relevant.

Hire and Drive Passenger Service

A passenger service where a vehicle is hired out, without a driver, for the carriage of passengers. This includes dual cab utilities and campervans and mobile homes.

Hire vehicles used to carry goods (such as single-cab utilities, vans and trucks) are not passenger vehicles. Operators of services that hire out solely these types of vehicles do not have to hold hire and drive passenger service operator accreditation.

Large passenger vehicle

A vehicle with 10 or more seats (including the driver's seat)

Small passenger vehicle

A vehicle with fewer than 10 seats (including the driver's seat)

Seat includes:

- The driver's seat
- An individual seating position on a bench seat
- A demountable seat (e.g. can be removed from the vehicle without structurally altering the vehicle)
- A modifiable seat (e.g. can be collapsed, retracted or folded away when not in use)
- A seat that requires a console or armrest to be temporarily collapsed, retracted or folded away
- A position in the vehicle that can accommodate a wheelchair

Seating capacity

Existing vehicles (registered before 1 July 2013):

The number of seats is taken to be the number of seats recorded in the Motor Registry System.

New vehicles not previously registered in Tasmania:

Vehicles registered from 1 July 2013 will have a seating capacity equal to the original manufactured seating capacity regardless of whether seats have been removed. However if, as a result of modification, the seating capacity is increased above the original manufactured capacity then the higher number of seats will apply.

(This distinction does not apply to vehicles used as wheelchair-accessible taxis, where the number of seats is taken to be the number of seats after modification.)

Ancillary Certificate

An addition to a driver licence issued by the Registrar of Motor Vehicles that permits a person to drive a motor vehicle for the purpose of providing a passenger transport service.

Serious offence

A serious offence is an offence prescribed in the Passenger Transport Services Act and includes offences under:

- Sections 124, 125A, 125B, 125C, 125D, 126 and 127 of the *Criminal Code Act 1924* (sexual offences against children)
- Sections 158, 167A, 167B, 170 and 172 of the *Criminal Code Act 1924* (murder, causing death or grievous bodily harm by dangerous driving, causing grievous bodily harm generally)
- Chapter XIX or XX of Part V of the *Criminal Code Act 1924* (assault, rape, abduction or stalking)
- Section 7A of the *Police Offences Act 1935* (loitering near children)
- Sections 37B and 37C of the *Police Offences Act 1935* (stealing a motor vehicle or obtaining a motor vehicle by fraudulent means)
- Section 32 of the *Traffic Act 1925* (reckless or negligent driving)
- Division 1 of Part 3 of the *Vehicle and Traffic Act 1999* (e.g. driving unlicensed or while disqualified)
- Part 4 of the *Vehicle and Traffic Act 1999* (e.g. driving unregistered vehicles)
- Section 53 of the *Vehicle and Traffic Act 1999* (hindering or obstructing police officers or authorised officers)
- Section 64 of the *Vehicle and Traffic Act 1999* (obtaining a driver licence, ancillary certificate, vehicle registration etc dishonestly, providing false or misleading information in respect of vehicle registration, driver licences)

For a full explanation of these offences, you should refer to the relevant legislation, which is available at www.thelaw.tas.gov.au.

Application for Operator Accreditation

Before completing this application form:

- It is important that you read the relevant information sheets, guide and manual at www.transport.tas.gov.au/accreditation.
- If you are applying for passenger transport service accreditation, you should complete the online self-assessment tool at www.transport.tas.gov.au/accreditation to determine the type of service you will be operating and whether or not you will require a licence.

Section 1: Applicant Details

Applicant Type: Individual Partnership Company / Organisation

If applying as an individual, company or organisation:

Name (individual or company / organisation)

Australian Company Number (if applicable)

Street address

Postal address

Email

Phone

Mobile

If applying as a partnership:

Partner 1 Details

Name

Street address

Email

Phone

Mobile

Partner 2 Details

Name

Street address

Email

Phone

Mobile

Note: To nominate further partners you will need to submit their details on an additional sheet.

Have you ever held accreditation? Yes No

If yes, in which State? TAS VIC SA QLD WA ACT NT

Has the applicant (including any director, partner or responsible person) ever been refused accreditation? Yes No

Has the applicant (including any director, partner or responsible person) ever had accreditation cancelled? Yes No

If yes to any of the above, provide details:

Section 2: Responsible Person

Note: You do not need to complete this section if you are applying as an individual.

The Responsible Person must be:		
Type of Organisation	Responsible Person	
Government Body	A member or senior employee	
Partnership	One of the partners	
Incorporated Body	An officer or an employee	
Unincorporated Body	A member	

Name

Street address

Postal address

Email Phone Mobile

Section 3: Type of Service

What is the type of service you intend to operate?	
Passenger Transport Service	Complete Part A below
Hire and Drive Passenger Service	Complete Part B on page 3

Part A - Passenger Transport Service

Type of service:	Taxi	Tour	Luxury Hire Car	Bus	Not for Profit	Other
Description of service:						
Business or trading name under which the service will be operating or advertising:						
Proposed advertising (e.g. website, social media) or taxi network:						
Address from which the service will be operating:						
Region or location in which the service will be operating (e.g. South, Statewide, Flinders Island):						
How many vehicles do you intend to operate?						
Provide registration number(s) if known:						
How many drivers do you intend to engage to drive your vehicles?						
Type of licence required (if applicable). Refer to the Taxi, Luxury Hire Car and Restricted Hire Vehicle Information Sheet on the Transport Services Tasmania website if unsure:						
	Taxi	Restricted Hire Vehicle	Luxury Hire Car			
If you will be operating a taxi service, please provide information about how you intend to obtain or lease a taxi licence. Provide details of the licence if known:						

Part B - Hire and Drive Service

Type of service: Car Hire Camper Van Hire Other

Description of service:

Business or trading name under which the service will be operating or advertising:

Proposed advertising (e.g. website, social media):

Address from which the service will be operating:

Region or location in which the service will be operating (e.g. South, Statewide, Flinders Island):

How many vehicles do you intend to operate?

Provide registration number(s) if known:

Section 4: Required Documents

The following documents must be submitted with the application form:

ASIC current historical company extract (if applicant is a company) or certificate of incorporation (if applicant is an incorporated body).

Proof of identity (for individual applicant or nominated Responsible Person):

- a copy of a Tasmanian driver licence; or
- a copy of a passport or birth certificate and proof of address.

Current National Police Certificate (NPC) for either:

- the applicant (if applying as an individual); or
- each of the partners (if applying as a partnership); or
- the nominated Responsible Person (if applying as an organisation).

Note: The NPC must be issued by Tasmania Police (or equivalent interstate authority) for the purposes of a schedule 1 record and received by the Transport Commission within 90 days of extraction (refer to the [National Police Certificate Information Sheet](#) on the [Transport Services Tasmania](#) website).

Audit report of the required type, which is either:

- an external audit completed by an approved auditor (category A or B service); or
- a self-audit report (category C service or Hire and Drive service).

Note: If you are unsure about the category of your proposed passenger transport service you will need to complete the self-assessment tool on the [Transport Services Tasmania](#) website. A list of approved auditors is also available on the website.

Section 5: Optional Supporting Information

The following information is not mandatory but will help with the assessment of your application:

- A statement of previous relevant experience.
- Your business plan.
- If you (as an individual applicant or nominated Responsible Person) do not reside in Tasmania, how you intend to fulfil the responsibilities associated with the role.
- Other relevant information (e.g. personal referees / references).

Section 6: Signature

This application form must be signed by:

- a person who has the authority to do so (if applicant is a company or organisation); or
- all partners (if the applicant is a partnership).

The person making the application:

Signature

Name

Authority to sign on behalf of applicant if not an individual (e.g. Director)

Date

The nominated Responsible Person (if different from the person making the application):

Signature

Name

Date

The Witness:

Signature

Name

Date

This application and the [fee](#) can be lodged at any [Service Tasmania shop](#). The application fee must be paid on lodgement and is not refundable.

Personal Information Protection Statement

You are providing personal information to the Transport Commission which will manage that information in accordance with the [Personal Information Protection Act 2004](#).

The personal information collected here will be used by the Transport Commission and may be disclosed to other authorities, including the Department of State Growth and Registrar of Motor Vehicles, for the purpose of administering the [Taxi and Hire Vehicle Industries Act 2008](#), [Passenger Transport Services Act 2011](#), [Vehicle and Traffic Act 1999](#) and associated laws.

Failure to provide this information may affect the assessment of your application, or records not being properly maintained. The Transport Commission may also use the information for related purposes, or disclose it to third parties in circumstances allowed for by the law.

You have the right to ask the Department of State Growth to give you access to the personal information you have provided. You may be charged a fee for this service.

ENQUIRIES

Email operator.accreditation@stategrowth.tas.gov.au

Phone 1300 135 513



Department of State Growth
Passenger Transport Branch

GPO BOX 536
Hobart Tasmania 7001

Phone: 03 6166 3275

Email: operator.accreditation@stategrowth.tas.gov.au

This Guide and the associated manual is available online at
www.transport.tas.gov.au/passenger/operators

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