

PUBLIC TRANSPORT USERS ASSOCIATION INC.
Org. No. A-6256L

**SUBMISSION: TRANSPORT (COMPLIANCE AND MISCELLANEOUS)
(CONDUCT ON PUBLIC TRANSPORT) REGULATIONS 2015**

The Public Transport Users Association welcomes the opportunity to comment on the introduction of the revised *Transport (Compliance and Miscellaneous) (Conduct on Public Transport) Regulations 2015* ('the Regulations').

The Association supports the development and enforcement of appropriate regulations to ensure the safety, integrity and effective operation of the public transport system for the benefit of passengers. Accordingly we are broadly supportive of the Regulations as proposed, and specifically new provisions relating to matters such as passengers with special needs, and the move to more consistent rules across all modes of public transport to avoid passenger confusion.

We would also like to take the opportunity to provide feedback on some less conspicuous aspects of the existing *Transport (Conduct) Regulations 2005* ('the 2005 Regulations'), which are proposed to be carried over into the Regulations without change, but which we believe warrant revision in light of experience over the ensuing decade.

Specific comments are provided under specific rule headings below.

Rules newly included or substantially broadened in the Regulations

Bicycles

The PTUA supports the proposals to clarify the circumstances under which bicycles are permitted on public transport.

A previous initiative from 2007, involving much greater restrictions on taking bicycles onto trains, was opposed by the PTUA as in our view this was an overreach: in our experience, public transport users can in general be relied on to use proper judgement when bringing bicycles and other large items onto trains. The occasional exceptions, where bicycle users do not have adequate regard for shared space, are in our view addressed by rule 10 on creating obstructions: this rule should be more widely advertised to passengers and enforced against those who show patent disregard for common practice on sensible placement of bicycles on trains. A renewed education campaign on sensible placement of bicycles would also be a welcome initiative to address this issue.

The proposed ban under rule 11 on bicycles using the first door of the first carriage is a reasonable compromise in our view that maintains the right of carriage of bicycles on trains but avoids conflict with priority facilities for people with disabilities.

The proposed rules for bicycles on tram stop platforms are supported as consistent with the thrust of current rules. However, further clarification may be needed given that "tram stop platform" is not a defined term, and is capable of being read as including 'easy access' type platform stops such as in Swanston Street or Macarthur Street currently, and which explicitly provide for bicycle access. Clarifying words should be included to the effect that a "tram stop platform" for the purpose of this rule is one that is not contiguous with a road or road related area and is set aside by design for the exclusive use of tram passengers and/or pedestrians.

An additional recommendation is made in regard to rule 15(5) which covers the securing of bicycles to specially designed racks on buses. In line with the thrust of other provisions that ensure greater consistency between different classes of public transport vehicles we would suggest that 'bus' be replaced with 'bus or tram' in order not to foreclose possible future vehicle improvements. (Trams with exterior bicycle racks operate in some European cities.)

Vacating seats and special needs areas

The PTUA supports the principle of seat priority for people with special needs, which is proposed to be extended under new rule 44 to require vacating of seats other than those specially designated for special-needs passengers. There is an important proviso here that the rule only applies where seats are unreserved and where all designated seats (to which a person with special needs has reasonable access) are already occupied by those with a special need. Subject to this proviso, the PTUA supports extending the priority principle to cover other seats.

A new rule 45 is proposed to codify the priority use of spaces reserved for wheelchairs. This is supported as a reasonable extension of the priority principle that applies to designated seats.

Inclusion of buses and bus premises

A number of regulations that historically applied specifically to railway or tramway vehicles and premises are proposed to be extended to include buses and bus premises. As a matter of principle the PTUA supports this extension in the interests of consistency. The wording of such rules should however ensure that this extension does not inadvertently prohibit conduct that is explicitly permitted under other regulations, for example the riding of bicycles in on-road bus lanes.

Tram driver powers

The predecessor of rule 66 granted certain powers to bus drivers, and it is proposed to extend the same powers to tram drivers. The PTUA supports this proposal in the interests of consistency. We note that should tram conductors be reintroduced at some future time they would fall under the definition of Authorised Person (Conduct) and hence be granted the same powers.

There is of course a wider issue in connection with enforcement of instructions to leave a vehicle under rule 66, given that bus and tram drivers do not (and should not) have coercive powers akin to those of Authorised Officers. A request to leave a vehicle may in practice be difficult to enforce if resisted by a passenger, and drivers are currently advised (rightly in our view) not to involve themselves in confrontational situations. It may be expected that Authorised Officers will rarely be present to enforce instructions or consequent penalties. While there is no obvious regulatory solution to this issue, it does highlight the need for public transport drivers and staff more generally to be able to summon effective police backup in emergency situations.

Sound equipment

A broadened rule 29 is proposed to prohibit the unauthorised use of sound equipment unless contained by use of headphones or otherwise rendered inaudible to others. This is supported by the PTUA in the interests of passenger comfort and in light of technological evolution.

A related issue that creates some controversy in the community is radio or music broadcasting by

bus drivers within the vehicle, and the use of audible advertising screens at railway stations. Many passengers find this practice a nuisance similar to or exceeding that posed by other passengers with audible sound equipment, and the authorisation of such broadcasts is arguably inconsistent with the blanket ban on audible sound equipment in any other context. The PTUA would support a clarification or extension to this rule requiring a bus or tram driver or Authorised Person (Conduct) to cease any such broadcast on request from a passenger, regardless of any prior authorisation.

Smoking

The PTUA supports the principle of smoking bans on public transport vehicles, in enclosed and covered passenger spaces throughout the public transport system, and passenger waiting areas in general (other than those set aside for use by smokers and separately ventilated). As such we support the proposed rule 32 as it applies to passenger areas.

As an advocate for passenger safety and comfort the PTUA does not have a policy position on smoking within areas to which passengers do not normally have access.

Graffiti

The PTUA supports the proposed change to rule 37 that allows for 'appropriate written authorisation' to draw or affix posters on vehicles and premises. This serves to codify existing practice and does not in our view dilute the ban on unauthorised graffiti, which is considered by a large part of the travelling public to be a significant nuisance and an indicator of unsafe premises.

The PTUA also seeks to draw attention in this regard to the increasingly intrusive practices by transport operators in regard to advertising material that obscures passengers' view from vehicles or shelters. A particular issue raised in this regard is the 'wrap around' advertising now found on some buses and trams which partially blocks the view through windows, especially under low light conditions. The PTUA is seeking a review of this practice, and would support a principle expressed through either industry guidelines or regulation that passengers be entitled to a normal view through transparent windows on the side of public transport vehicles that shall not be noticeably impeded through the placement of advertising material.

Animals

Rules 39 and 40 are proposed to be broadened to replace references to dogs with more general references to animals, for example assistance animals other than dogs. The PTUA agrees with this proposal in the interests of fairness and consistency.

Rules proposed to be discontinued in the Regulations

Students to vacate seats

The PTUA believes the earlier rule 12 requiring primary and secondary school students who are using concession tickets to vacate seats for adult passengers is inconsistent with contemporary safety guidelines, which urge children to occupy seats preferentially in order to avoid injury. Given the provisions of other rules concerning reserved seating and special needs (including the proposed rule giving special-needs passengers priority over all seats), the question of appropriate seat allocation between students and adults without special needs might be viewed best as a matter of

social etiquette and not one of regulation.

The issue is controversial, and there remains a view in the community that (special needs aside) priority access to seats is a prerogative of those paying full adult fares. However, many who hold this view also consider it safer that children of primary school age occupy seats in preference to adults.

The PTUA accordingly supports discontinuing the application of this rule to primary school students, and recommends PTV and the Department take into account wider community views on retaining the rule as it applies to secondary school students.

Gambling

The PTUA has not taken a policy position for or against the prohibition of gambling on public transport, and so does not take a position on the discontinuance of this rule.

Exiting trams on right hand side

The PTUA agrees that the evolution of tramway infrastructure is inconsistent with the maintenance of a rule requiring passengers to always exit trams on the left hand side in the direction of travel. Arguably, this rule ceased to be necessary for safety reasons many decades ago when trams became fully enclosed. There were always special circumstances where tram drivers would authorise passengers to exit on the right side contrary to this rule, such as to transfer between vehicles. Accordingly the PTUA supports the discontinuance of this rule and believes this is long overdue.

Lost property in buses and other vehicles

Successive amendments to previous Passenger Vehicles regulations extended to buses and bus drivers certain responsibilities for lost property that were formerly specific to taxis and related services. The PTUA acknowledges that this may have been an instance of regulatory overreach.

At the same time, the PTUA believes there is value in maintaining enforceable guidelines for the handling of lost property on public transport, and notes that other Australian and international jurisdictions have enacted regulations concerning lost property.

The PTUA accordingly supports the inclusion in these or other regulations of a more limited form of the existing rules regarding handling of lost property on public transport. This should include:

- a) an obligation (similar to those applying in other State jurisdictions) for anyone finding lost property on public transport to take reasonable steps to hand it to the owner of the property, a public transport employee, an Authorised Person or police; and
- b) an obligation on public transport operators to develop and publish procedures for the retention and recovery of lost property, and ensure employees act in accordance with those procedures.

Rules proposed by PTUA for modification in the Regulations

Crossing railway tracks by pedestrians with adjacent vehicle crossing—rule 22(2)

The proposed rule 22(2) states that a pedestrian must not cross or attempt to cross railway tracks where gates or warning signals are operating at the crossing “or at an adjacent vehicle crossing”. This wording is carried over unchanged from the equivalent rule in the 2005 Regulations.

It is the normal practice, at railway stations with island platforms, to provide separate crossings for pedestrians at either side of the island platform, that are separately controlled according to the track(s) where trains are actually present. However, at most such locations there is also an adjacent vehicle crossing where the gates and signals, as a matter of practicality, do not distinguish among tracks where trains are present.

As a consequence, pedestrians who act in accordance with the signals at one foot crossing to cross a 'safe' track, while a train is present on the opposite track, are actually in technical breach of the proposed rule 22(2) because the gates and signals at the adjacent vehicle crossing will be operating at the same time.

The PTUA accordingly recommends that the wording of rule 22(2) be amended so that gates or signals at an adjacent vehicle crossing only apply where there are no gates or signals at the foot crossing itself, in accordance with current safe working practice. One suitable form of words would be as follows:

A pedestrian must not cross or attempt to cross railway tracks or designated tramway tracks at a place provided for crossing by pedestrians if—

- (a) gates at the crossing are closed or locked; or*
- (b) warning signals or devices are operating at the crossing; or*
- (c) where no gates or warning signals or devices are present at the crossing, gates at an adjacent vehicle crossing are closed or warning signals or devices are operating at an adjacent vehicle crossing; or*

... (etc)

Crossing between tramway platforms—rule 25(1)

Rule 25(1) states that a person must not, without reasonable excuse, enter “a place between 2 platforms in which there is a railway track or tramway track” other than at a designated crossing place. This wording is carried over essentially unchanged from the equivalent rule in the 2005 Regulations, which is itself a broadening of older rules prohibiting crossing in the pit between platforms at a railway station.

The PTUA supports the enactment and enforcement of rules that prohibit the kind of egregiously reckless behaviour in crossing railway or tramway tracks that have been the subject of the famous 'Dumb Ways To Die' campaign. In particular the PTUA supports a general prohibition on entering onto railway tracks or specific “designated tramway tracks” (those which were formerly railway tracks and facilitate the movement of trams in fully segregated right-of-way at similar speed to trains) other than at designated crossing points. The PTUA also supports the collection and publication of detailed statistics on fatalities, injuries and other incidents involving public transport vehicles to identify and police specific trouble spots and problem behaviours in an evidence-based manner.

However, rule 25(1) and its predecessor have sought to create an offence out of crossing tramway tracks that are embedded within the normal street environment. There is no precedent for such an offence, nor can this be likened to the situation on railways where a clear danger exists of colliding with a fast-moving train that cannot rely on sight to avoid obstacles. Trams (other than on designated tramway tracks) operate as part of regular street traffic and pose a similar hazard whether in a space between 2 platforms or not.

Unlike in much of the USA, there is no general prohibition in Victorian law on the uncontrolled crossing of streets by pedestrians. Road Rule 234 (*Road Safety (Road Rules) Regulations 2009*, also known as 'Victorian Road Rules') prohibits crossing within 20 metres of a marked crossing on the

street, but Rule 234(b) makes a specific exemption for crossing to or from a tram safety zone. Thus Victorian law has held that people boarding or alighting trams should receive special consideration when negotiating the street environment. Of course the other usual restrictions on uncontrolled crossing apply; in particular that a person must cross by the shortest safe route (Rule 230), must not cause a traffic hazard by moving into the path of a driver (Rule 236), and must not travel along the road when there is an adjacent footpath (Rule 238).

It is PTUA's view that these and other existing road safety regulations adequately address the hazard of crossing between tram stop platforms, the way they do the hazard of crossing between road kerbs more generally. (Although we have not sought legal advice on the matter, it would appear beyond doubt that a segregated tramway within a road reservation is a road for the purpose of the Victorian Road Rules.) As an advocate for transport policy that supports walking in addition to public transport, we do not agree with the enacting of USA-style prohibitions wherever tram platform stops exist, many of which are a good deal more than 40 metres from end to end.

Accordingly it is PTUA's recommendation that "tramway track" be replaced with "designated tramway track" in the wording of rule 25(1), and that the normal provisions of the Victorian Road Rules be relied on to regulate pedestrian behaviour in the vicinity of tram platform stops.

Placing feet on parts of vehicles—rule 35

The PTUA fully supports the prohibition on placing feet on seats or other public transport furniture, which is the purpose of rule 35 and its predecessors. It is the strong view of most passengers that regulatory measures be enacted and enforced to deter the inappropriate placement of feet.

However, we believe that the wording of the present rule 35 can be interpreted technically in a way we believe is far broader than intended. A person also commits an offence under this rule if their feet come in contact with a seat post, the base of a pole or the bottom of the outside wall of a vehicle. The PTUA is aware of anecdotal reports that such overbroad interpretations have been used over the past decade against passengers whose behaviour has not raised concern.

The PTUA accordingly recommends amending rule 35 to provide an exception where feet make inadvertent contact with a part of the vehicle near the floor, provided the foot remains in contact with the floor.