

CLAUSE NOTES

Vehicle and Traffic Amendment (Offensive Advertising) Bill 2017

PART 1 PRELIMINARY

Clause 1 Short title

Clause 2 This clause provides for the Act to commence on a day to be proclaimed.

PART 2 VEHICLE AND TRAFFIC ACT 1999 AMENDED

Clause 3 In this Bill, the *Vehicle and Traffic Act 1999* is referred to as the Principal Act.

Clause 4 This clause inserts two new definitions - 'hire and drive vehicle' and 'offensive advertising notice' - for the purposes of the Bill.

Clause 5 This clause inserts the new Section 33 offensive advertising on vehicles provisions in the Principal Act. It defines the advertising code, who the Advertising Standards Bureau and Advertising Standards Board are, and sets out the process for the Registrar of Motor Vehicles to serve a registration cancellation notice on the registered operator of the hire and drive vehicle.

It provides that the Registrar of Motor Vehicles must serve a notice on the registered operator if the Advertising Standards Board has conducted a review and determined the advertising is offensive. The Bureau's notice to the Registrar must state it has not withdrawn its advertising code breach notice as this then informs the Registrar to issue the cancellation notice. The Bureau's notice to the Registrar also may state that the Board's determination in the notice is final.

The Registrar's notice to the registered operator must state the name of the registered operator, details of the vehicle and that the registration will be cancelled in 14 days unless the Bureau has withdrawn its breach code notice.

If the Bureau has withdrawn its notice, the clause requires the Registrar to revoke its notice to cancel the registration.

Clause 6 This clause amends Section 39 of the Act, which allows for the making of regulations for the vehicle registration scheme, by including powers for the cancellation of a vehicle's registration for offensive advertising and, if it has been deregistered for that reason, for it to not be reregistered if there is an advertising code breach notice outstanding.

PART 3 VEHICLE AND TRAFFIC (DRIVER LICENSING AND VEHICLE REGISTRATION) REGULATIONS 2010 AMENDED

Clause 7 In this Bill, the *Vehicle and Traffic Act (Driver Licensing & Vehicle Registration) Regulations 2010* are referred to as the Principal Regulations.

Clause 8 Regulation 52 provides the process for how a vehicle can be registered or deregistered. This clause amends Regulation 52(1) to include an additional eligibility requirement that there is no outstanding advertising breach code notice in relation to the vehicle. Without this clause, the vehicle could be registered with the offensive advertising still displayed on it.

- Clause 9 This clause amends Regulation 57 to provide that the Registrar must refuse to register the vehicle if there is an offensive advertising notice outstanding on the vehicle. This is a 'cross-check' mechanism to ensure the registered operator has fully complied with the advertising code breach notice and had it withdrawn by the Bureau before the vehicle is reregistered.
- Clause 10 This clause amends Regulation 72 by requiring the Registrar to cancel the registration of the vehicle after 14 days of serving an offensive advertising notice under Section 33 of the Act if the Bureau has not withdrawn its code breach notice.
- Clause 11 This clause amends Regulation 74 to require the Registrar to provide a notice of cancellation to the registered operator, which includes specific information on why the registration is being cancelled and what date it will take effect. This is consistent with current requirements placed on the Registrar when issuing a registration cancellation notice.
- For reregistration to occur, Regulation 74 currently requires the Registrar to be satisfied that the registered operator has taken action to remedy any non-compliance. This clause amends the Regulation so that it is for the Bureau to be satisfied (not the Registrar) that the advertising code breach notice is remedied and to withdraw the notice prior to the Registrar reregistering the vehicle.
- PART 4 VEHICLE AND TRAFFIC (REVIEW OF DECISIONS) REGULATIONS 2010 AMENDED**
- Clause 12 In this Bill, the *Vehicle and Traffic (Review of Decisions) Regulations 2010* are the Principal Regulations.
- Clause 13 In the current Regulations, a decision by the Registrar to suspend or cancel the registration of a vehicle is an administrative decision which is reviewable. This clause inserts a new Regulation 3A to provide that a decision to cancel the registration on the basis of an offensive advertising breach notice is not be taken as a administrative decision subject to review.
- The Board's complaint process provides the opportunity for the advertiser to respond to the complaint and seek an independent review. If this cancellation for offensive advertising is a reviewable decision by the Registrar, it creates a duplication of review.
- Clause 14 This clause provides that the legislation set out in this Act is repealed one year from when it commences.