



Queensland

# **Transport Operations (Road Use Management) (Offensive Advertising) Amendment Act 2017**

**Act No. 1 of 2017**

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**An Act to amend the Transport Operations (Road Use Management) Act 1995 for particular purposes**

**[Assented to 27 February 2017]**





Queensland

# Transport Operations (Road Use Management) (Offensive Advertising) Amendment Act 2017

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**The Parliament of Queensland enacts—**

**1 Short title**

This Act may be cited as the *Transport Operations (Road Use Management) (Offensive Advertising) Amendment Act 2017*.

**2 Commencement**

This Act commences on a day to be fixed by proclamation.

**3 Act amended**

This Act amends the *Transport Operations (Road Use Management) Act 1995*.

**4 Insertion of new ch 3, pt 1B**

Chapter 3—

*insert—*

**Part 1B                      Cancelling vehicle  
   registration for  
   offensive  
   advertisements**

**Division 1                  Preliminary**

**19D Definitions for part**

In this part—

*advertising code* means—

- (a) the document called the ‘AANA Code of Ethics’ published by the Australian Association of National Advertisers

ACN 003 179 673, as in force from time to time; or

- (b) another document that—
  - (i) states a code of ethics, or sets standards, for advertising; and
  - (ii) is prescribed by regulation to be an advertising code.

*advertising code breach notice* see section 19E(1)(b).

*Advertising Standards Bureau* means the Advertising Standards Bureau ACN 084 452 666.

*board* means the board appointed by the Advertising Standards Bureau that has the function of considering complaints about advertising made by members of the public to determine whether the advertising breaches the advertising code.

*registration cancellation notice* see section 19F(1).

## **Division 2            Cancelling vehicle                                  registration**

### **19E Application of division**

- (1) This division applies if—
  - (a) the board determines that an advertisement on a registered vehicle breaches the advertising code; and
  - (b) the Advertising Standards Bureau gives the chief executive a written notice (an *advertising code breach notice*) stating—
    - (i) the details of the determination; and
    - (ii) that the determination is final.

- (2) For subsection (1)(b)(ii), the determination is final if the period for asking for a review of the determination has ended and—
  - (a) any of the following applies to each request for a review of the determination—
    - (i) the request was not accepted because it did not meet the grounds on which a determination may be reviewed;
    - (ii) the determination was confirmed;
    - (iii) the review resulted in a determination that an advertisement on the vehicle breaches the advertising code; or
  - (b) no request for a review of the determination was made.
- (3) In subsection (1)(a), a reference to a determination by the board includes a reference to a determination made by another entity as a result of a review of a determination of the board.

### **19F Registration cancellation notice**

- (1) The chief executive may give the registered operator of the vehicle a notice (a ***registration cancellation notice***) stating that—
  - (a) the Advertising Standards Bureau has given an advertising code breach notice for the vehicle to the chief executive; and
  - (b) the vehicle's registration will be cancelled on a stated day unless the Advertising Standards Bureau withdraws its advertising code breach notice before that day.
- (2) The day stated in the registration cancellation notice must be at least 14 days after the notice is given to the registered operator.
- (3) The chief executive may, by notice given to the registered operator, state a later day on which the

vehicle's registration will be cancelled.

### **19G Advertising Standards Bureau withdraws advertising code breach notice**

- (1) This section applies if—
  - (a) the chief executive gives a registration cancellation notice to the registered operator of the vehicle; and
  - (b) the Advertising Standards Bureau gives a written notice to the chief executive, before the chief executive cancels the vehicle's registration under section 19H, withdrawing its advertising code breach notice.
- (2) The chief executive must—
  - (a) take no further action under this division to cancel the registration of the vehicle; and
  - (b) give a written notice to the registered operator of the vehicle stating that—
    - (i) the advertising code breach notice has been withdrawn; and
    - (ii) no further action will be taken to cancel the registration of the vehicle.

### **19H Cancellation of registration**

- (1) The chief executive may cancel the vehicle's registration, on or after the cancellation day, if the Advertising Standards Bureau has not given the chief executive a notice withdrawing the advertising code breach notice for the vehicle.
- (2) The chief executive must give the registered operator of the vehicle written notice of the cancellation.
- (3) If the chief executive decides not to cancel the vehicle's registration, the chief executive must



give written notice that no further action will be taken to cancel the registration of the vehicle to the registered operator.

(4) In this section—

*cancellation day* means the day stated in a registration cancellation notice given under section 19F(1), or a later day stated in a notice given under section 19F(3), as the day on which the vehicle's registration will be cancelled.

### **19I Requirement to return number plates and registration label**

(1) The notice of the cancellation of the vehicle's registration under section 19H(2) must require the registered operator to return to the chief executive within 14 days after the notice is given—

- (a) the number plates issued for the vehicle; and
- (b) if, under a regulation, a registration label is required to be issued for the vehicle when the vehicle is registered—the registration label issued for the vehicle.

(2) The registered operator must comply with the requirement under subsection (1).

Maximum penalty—20 penalty units.

(3) However, if a number plate or registration label has been lost, stolen or destroyed, the registered operator does not contravene subsection (2) if the registered operator, by written notice, gives details of the loss, theft or destruction to the chief executive within the period mentioned in subsection (1).

## **Division 3                      Matters after vehicle    registration is cancelled**

### **19J Application of division**

This division applies if—

- (a) the chief executive—
  - (i) gives a registration cancellation notice for a vehicle to the registered operator; and
  - (ii) does not give the registered operator a notice that no further action will be taken to cancel the vehicle's registration under section 19G(2)(b) or 19H(3); and
- (b) after the registration cancellation notice is given, the registration of the vehicle is cancelled, whether under section 19H or otherwise.

### **19K No refund of registration fee**

The registered operator of the vehicle is not entitled to a refund of the registration fee, or part of the fee, paid for the vehicle because of the cancellation.

### **19L Applying for registration after registration cancelled**

- (1) An application made under a regulation for the registration of the vehicle must be accompanied by a statutory declaration by the applicant stating that the advertisement the subject of the registration cancellation notice has been removed from the vehicle.
- (2) The chief executive must refuse to accept the application for registration unless it is accompanied by the statutory declaration.

## **Division 4      General**

### **19M No transfer of registration**

The chief executive must not record a transfer of the registration of a vehicle if—

- (a) a registration cancellation notice for the vehicle has been given to the registered operator; and
- (b) the chief executive has not given the registered operator a notice that no further action will be taken to cancel the vehicle's registration under section 19G(2)(b) or 19H(3).

### **19N Limitation of review**

- (1) This section applies to each of the following decisions of the chief executive—
  - (a) a decision to give a registration cancellation notice under section 19F(1);
  - (b) a decision to cancel, or not to cancel, the registration of a vehicle under section 19H.
- (2) The *Judicial Review Act 1991*, part 4 does not apply to the decision.
- (3) Subject to subsection (4), the decision—
  - (a) is final and conclusive; and
  - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (4) The *Judicial Review Act 1991*, part 5 applies to the decision to the extent the decision is affected

by jurisdictional error.

(5) In this section—

**decision** includes a decision or conduct leading up to or forming part of the process of making a decision.

### **190 Notices given by electronic communication**

The chief executive may give a notice to the registered operator of a vehicle under this part by electronic communication to an electronic address of the registered operator if the operator—

- (a) gave the address to the chief executive for the purpose of communicating with the registered operator (whether or not it was given for use under this part); and
- (b) has not asked the chief executive (orally or in writing) to discontinue use of the address.

*Examples of an electronic address—*

an email address or mobile phone number

## **5 Amendment of sch 4 (Dictionary)**

Schedule 4—

*insert—*

**advertising code**, for chapter 3, part 1B, see section 19D.

**advertising code breach notice**, for chapter 3, part 1B, see section 19E(1)(b).

**Advertising Standards Bureau**, for chapter 3, part 1B, see section 19D.

**board**, for chapter 3, part 1B, see section 19D.

**registration cancellation notice**, for chapter 3, part 1B, see section 19F(1).

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