



New South Wales

# Government Advertising Regulation 2018

under the

Government Advertising Act 2011

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Government Advertising Act 2011*.

GLADYS BEREJIKLIAN, MP  
Premier

## Explanatory note

The object of this Regulation is to repeal and remake, with amendments, the provisions of the *Government Advertising Regulation 2012*, which would otherwise be repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation:

- (a) provides that the head of a Government agency must ensure that a peer review of a Government advertising campaign of the agency is carried out before the campaign commences if the cost of that campaign is likely to exceed \$250,000 (rather than \$50,000 as is specified in the *Government Advertising Act 2011 (the GA Act)*), and
- (b) exempts from the whole of the GA Act (other than the prohibition on political advertising) Government advertising campaigns by or on behalf of certain specified bodies (for example, Royal Commissions, Special Commissions of Inquiry, the Independent Commission Against Corruption and universities), and
- (c) exempts certain advertising campaigns undertaken by the Electoral Commissioner or the Electoral Commission from specified provisions of the GA Act, and
- (d) exempts, in prescribed circumstances, certain routine advertising campaigns from the requirement in the GA Act that the head of the Government agency must give an advertising compliance certificate for the campaign, and
- (e) exempts Government advertising campaigns relating to certain specified events or carried out by or on behalf of certain specified persons or bodies from the prohibition against carrying out those campaigns during the period from 26 January to the general election date in an election year.

This Regulation is made under the *Government Advertising Act 2011*, including sections 4 (5), 7 (2) and 15 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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## Government Advertising Regulation 2018

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### 1 Name of Regulation

This Regulation is the *Government Advertising Regulation 2018*.

### 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

**Note.** This Regulation replaces the *Government Advertising Regulation 2012*, which would otherwise be repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

(1) In this Regulation:

*the Act* means the *Government Advertising Act 2011*.

**Note.** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

### 4 Peer review of Government advertising campaigns threshold

For the purposes of section 7 (2) of the Act, the prescribed amount is \$250,000.

### 5 Exemption from whole Act (other than prohibition on political advertising)

The Act (other than section 6 (1)) does not apply to a Government advertising campaign by or on behalf of the following:

- (a) a Royal Commission,
- (b) a Special Commission of Inquiry,
- (c) the Independent Commission Against Corruption,
- (d) the Law Enforcement Conduct Commission,
- (e) the Electoral Districts Redistribution Panel within the meaning of the *Electoral Act 2017*,
- (f) a State owned corporation,
- (g) a university established or continued by or under a statutory instrument.

### 6 Exemptions relating to certain advertising campaigns undertaken by Electoral Commissioner or Electoral Commission

Sections 6 and 7 (2) of the Act do not apply to a Government advertising campaign that:

- (a) the Electoral Commissioner or the Electoral Commission is required to carry out by law, or

- (b) is carried out by the Electoral Commissioner or the Electoral Commission for the purposes of, or in connection with, a particular electoral event (such as a State election, a local government election, a referendum or other election that the Electoral Commissioner is required to administer by law).

**7 Exemption of routine advertising from requirement for head of agency compliance certificate**

- (1) A routine campaign, and the Government agency concerned, are exempt from section 8 of the Act if:
  - (a) the cost of the campaign is not likely to exceed \$250,000, and
  - (b) the campaign is procured on behalf of the agency by a member of staff, or a member of staff who is a member of a class of members of staff, authorised in writing by the head of the agency, and
  - (c) the authorised officer is otherwise authorised to incur the expenditure on behalf of the agency, and
  - (d) in the opinion of the authorised officer, the campaign complies with the Act, the regulations and the Government advertising guidelines.
- (2) In this clause, *routine campaign* means a Government advertising campaign that principally involves the dissemination of any of the following:
  - (a) information about routine matters relating to the provision of services, including notification of service changes,
  - (b) information about requirements imposed on persons,
  - (c) community announcements or notices about community events or activities,
  - (d) notices or announcements required to be made by or under any law,
  - (e) recruitment notices,
  - (f) government tender or procurement notices.

**8 Exemption from restrictions on Government advertising campaigns during pre-election period**

- (1) Section 10 of the Act does not apply to a Government advertising campaign relating to the following matters:
  - (a) NSW Seniors Festival,
  - (b) the Parramasala Festival,
  - (c) the Premier's Harmony Dinner,
  - (d) NSW Women's Week (including NSW Women of the Year Awards).
- (2) Section 10 of the Act does not apply to a Government advertising campaign by or on behalf of the following:
  - (a) the Art Gallery of New South Wales Trust,
  - (b) the Australian Museum Trust,
  - (c) the Barangaroo Delivery Authority,
  - (d) the Centennial Park and Moore Park Trust,
  - (e) Destination NSW,
  - (f) the Historic Houses Trust of New South Wales,
  - (g) the Trustees of the Museum of Applied Arts and Sciences (also known as the Powerhouse Museum),
  - (h) the NSW Trustee and Guardian,

- (i) the Office of Environment and Heritage (but only for purposes in connection with the National Parks and Wildlife Service),
  - (j) the Parramatta Park Trust,
  - (k) Property NSW,
  - (l) the Royal Botanic Gardens and Domain Trust,
  - (m) the State Library of New South Wales,
  - (n) the Sydney Cricket and Sports Ground Trust,
  - (o) the Sydney Olympic Park Authority,
  - (p) the Sydney Opera House Trust,
  - (q) the Technical and Further Education Commission (also known as the TAFE Commission),
  - (r) Venues NSW,
  - (s) the Western Sydney Parklands Trust,
  - (t) the Zoological Parks Board of New South Wales (also known as the Taronga Conservation Society Australia).
- (3) Section 10 of the Act does not apply to a Government advertising campaign on behalf of the following:
- (a) Create NSW,
  - (b) NSW TrainLink.

## **9 Repeal**

The *Government Advertising Regulation 2012* is repealed.

## **10 Saving**

Any act, matter or thing that, immediately before the repeal of the *Government Advertising Regulation 2012*, had effect under that Regulation continues to have effect under this Regulation.