



New South Wales

Road Transport Legislation Amendment (Offensive Advertising) Regulation 2021

under the

Road Transport Act 2013

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport Act 2013*.

ANDREW CONSTANCE, MP
Minister for Transport and Roads

Explanatory note

The object of this Regulation is to allow Transport for NSW to cancel a vehicle's registration if the Ad Standards Community Panel has determined that offensive or discriminatory advertising material is displayed on the vehicle.

This Regulation is made under the *Road Transport Act 2013*, including sections 23 (the general statutory rule-making power) and 24 and Schedule 1, clause 3A.

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1 Name of Regulation

This Regulation is the *Road Transport Legislation Amendment (Offensive Advertising) Regulation 2021*.

2 Commencement

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

Schedule 1 Amendment of Road Transport (Vehicle Registration) Regulation 2017

[1] Clause 45 Suspension or cancellation of registration by TfNSW

Insert after clause 45(1)—

- (1A) Transport for NSW must, at the end of the period of 14 days after a TfNSW offensive advertising notice under clause 48C has been given to the registered operator of a registrable vehicle, cancel the registration of the vehicle in accordance with this Division, unless Ad Standards has given written notice of the withdrawal of the relevant advertising code breach notice before the expiry of the 14-day period.

[2] Clause 47 Procedures for suspension and cancellation of registration

Insert at the end of clause 47(3)(c)—

, or

- (d) if Transport for NSW is required to cancel the registration under clause 45(1A).

[3] Division 4A

Insert after Division 4—

Division 4A Offensive advertising

48A Definitions

In this Division—

Ad Standards means Advertising Standards Ltd (ACN 084 452 666).

Ad Standards Community Panel means the Panel, formerly known as the Advertising Standards Board, appointed by Ad Standards with the function of considering complaints about advertising, made by members of the public, to determine whether the advertising breaches the advertising code.

advertising code means 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.

advertising code breach notice—see clause 48B.

TfNSW offensive advertising notice—see clause 48C.

48B Advertising code breach notice

- (1) If the Ad Standards Community Panel has made a determination that advertising on a vehicle breaches the advertising code, Ad Standards may give Transport for NSW a written notice (an *advertising code breach notice*) stating—
- (a) the details of the determination, and
- (b) the determination is final.
- (2) For subclause (1)(b), the determination is final if the period specified for a person to request 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 review resulted in a determination that advertising on the vehicle breaches the advertising code, or
- (b) no request for a review of the determination was made.

48C TfNSW offensive advertising notice

- (1) Transport for NSW must give written notice to the registered operator of a registrable vehicle (a *TfNSW offensive advertising notice*) if Ad Standards has given an advertising code breach notice for the vehicle to Transport for NSW.
- (2) A TfNSW offensive advertising notice must state that the vehicle's registration will be cancelled at the end of the period of 14 days after the notice has been issued to the registered operator unless Ad Standards withdraws its advertising code breach notice.
- (3) For the avoidance of doubt, Transport for NSW is not required to give a notice under subclause (1) if Ad Standards withdraws the relevant advertising code breach notice for the vehicle.

48D Withdrawal of advertising code breach notice

- (1) This clause applies if—
 - (a) Transport for NSW gives a TfNSW offensive advertising notice to the registered operator of the registrable vehicle, and
 - (b) Ad Standards gives a written notice to Transport for NSW, before Transport for NSW cancels the vehicle's registration under clause 45(1A), withdrawing the relevant advertising code breach notice.
- (2) Transport for NSW must—
 - (a) take no further action under this Division to cancel the registration of the vehicle, and
 - (b) give written notice to the registered operator of the vehicle stating that no further action will be taken to cancel the registration of the vehicle.

48E No refund of registration fee

The registered operator of a registrable vehicle is not entitled to the refund of fees paid in respect of registering the vehicle, or part of the fee, because of the cancellation of the registration under clause 45(1A).

48F Applying for registration after registration cancelled

An application made under Part 2 for the registration of a vehicle, following the vehicle's registration being cancelled under clause 45(1A), must be accompanied by a statutory declaration by the applicant stating that the advertisement the subject of the TfNSW offensive advertising notice has been removed from the vehicle.

48G No transfer of registration

Transport for NSW must not register the transfer of registration of a registrable vehicle if—

- (a) a TfNSW offensive advertising notice for the vehicle has been given to the registered operator, and
- (b) Transport for NSW has not given the registered operator notice that no further action will be taken to cancel the vehicle's registration under clause 48D(2)(b).

Schedule 2 Amendment of Road Transport (General) Regulation 2013

Clause 131 Decisions excluded from definition of “appealable decision”

Insert after clause 131(c)—

- (d) a decision of Transport for NSW to cancel the registration of a vehicle under clause 45(1A) of the *Road Transport (Vehicle Registration) Regulation 2017*.