

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to provide for the keeping of a register of written-off vehicles and the collection of information concerning written-off vehicles,
- (b) to prevent the registration of a vehicle having the same vehicle identifier as a written-off vehicle unless the Roads and Traffic Authority (**RTA**) has issued an authorisation to repair the vehicle, and a licensed motor vehicle repairer has assessed the vehicle as meeting certain repair standards and issued a certificate of compliance in relation to the vehicle,
- (c) to prevent the registration of a vehicle that has the same vehicle identifier as certain written-off vehicles recorded on a register of written-off vehicles in another jurisdiction,
- (d) to enable Austroads, the body maintaining the national database of written-off vehicles (to which all Australian driver licensing and vehicle registration authorities transmit information from their local registers and from which they obtain information), to have access to the details on the register of written-off vehicles.

Explanatory note page 2

Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Bill 2010

Explanatory note

Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be proclaimed.

**Clause 3** repeals the *Road Transport (General) Amendment (Written-off Vehicles) Act 2007*.

### **Schedule 1 Amendment of Road Transport (Vehicle Registration) Act 1997 No 119**

**Schedule 1** amends the *Road Transport (Vehicle Registration) Act 1997* as follows:

**Schedule 1 [1]** clarifies that a reference in the *Road Transport (Vehicle Registration) Act 1997* to a vehicle being “registered” is a reference to the vehicle being registered on the Register of Registrable Vehicles.

**Schedule 1 [2]** inserts a new Part containing the following provisions relating to the notification, registration and management of certain written-off vehicles:

#### **Part 2AA Written-off vehicles**

##### **Division 1 Preliminary**

Proposed section 16A defines words and expressions used in the proposed Part.

##### **Division 2 Restrictions on registration of certain written-off vehicles**

Proposed section 16B requires the RTA to keep a register of written-off vehicles which records vehicles as either statutory written-off vehicles or former written-off vehicles. A vehicle recorded on the register will be a statutory written-off vehicle unless it is repaired and registered in accordance with the proposed Part, in which case it will be a former written-off vehicle. The term **written-off vehicle** is defined to include a vehicle that an insurer, self-insurer, auto-dismantler, dealer or prescribed person has assessed as a total loss in accordance with proposed Division 3, a vehicle that has been disposed of by a self-insurer to an auto-dismantler or a vehicle that an auto-dismantler has demolished or dismantled or intends to demolish or dismantle. Vehicles recorded on the previous register of written-off vehicles immediately before the proposed Act commences will also be written-off vehicles.

Proposed section 16C requires the RTA to refuse to register vehicles that have the same vehicle identifier as a statutory written-off vehicle or an interstate written-off

vehicle unless the RTA has approved the vehicle as both eligible and able to be repaired, and has issued an authorisation to repair the vehicle, and a licensed motor vehicle repairer has assessed the vehicle as meeting certain repair standards and issued a certificate of compliance in relation to the vehicle.

Explanatory note page 3

Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Bill 2010

Explanatory note

Proposed section 16D specifies the circumstances in which the RTA must refuse to issue an authorisation to repair a written-off vehicle.

Proposed section 16E provides for the making and handling of applications for the issue of an authorisation to repair a written-off vehicle.

### **Division 3 Assessment of damaged vehicles**

Proposed section 16F defines **assessor** as an insurer, self-insurer, auto-dismantler, dealer or other person prescribed by the regulations and **vehicle damage assessment** as an assessment made by or on behalf of, and in the course of business of, an assessor as to whether or not a notifiable vehicle (anywhere in Australia) is a total loss.

Proposed section 16G defines **notifiable vehicle** as a vehicle not more than 15 years old that complies with the Australian Design Rules, is linked to the State in some way and is not a heavy vehicle, or is a vehicle prescribed by the regulations.

Proposed section 16H defines a **total loss** as a vehicle that has been damaged, dismantled or demolished to the extent that its salvage value, plus the cost of repairing the vehicle for use on a road, would be more than the market value of the vehicle immediately before the damage, dismantling or demolition.

Proposed section 16I creates an offence (maximum penalty \$2,200) if an assessor fails to ensure that any vehicle damage assessment made by or on behalf of the assessor is made by a person who has the training, qualifications or experience required to make the assessment. The RTA may exempt people from that requirement. The proposed offence does not have effect until 6 months after the commencement of proposed Part 2AA.

Proposed section 16J creates an offence (maximum penalty \$27,500 for a corporation and \$5,500 for an individual and double those amounts in the case of a second or subsequent offence) if an assessor fails to ensure that any vehicle damage assessment made by or on behalf of the assessor includes an assessment of whether the vehicle has suffered damage that the regulations provide is non-repairable damage or fails to base the calculation of the cost of repair of the vehicle on the standard of repairs, and the repair methods, prescribed by the regulations.

Proposed section 16K creates offences (maximum penalty \$2,200) if an assessor fails to ensure that any vehicle damage assessment made by or on behalf of the assessor in respect of a vehicle is, on request, provided to the registered operator or owner of the vehicle or to the RTA or any person authorised by the RTA.

Proposed section 16L creates an offence (maximum penalty \$2,200) if an assessor fails to ensure that the RTA is provided with information concerning each vehicle that is assessed to be a total loss in the course of a vehicle damage assessment conducted by, or on behalf of, the assessor. The proposed section also creates similar offences in relation to a self-insurer failing to provide information concerning a vehicle that is taken to be a total loss by virtue of being disposed of to an auto-dismantler or an auto-dismantler failing to provide information concerning any vehicle that the auto-dismantler intends to demolish or dismantle. A person (other than an insurer) is not guilty of an offence in respect of a failure to provide

Explanatory note page 4

Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Bill 2010

Explanatory note

information if the person believes on reasonable grounds that the information has

already been provided by another person.

Proposed section 16M requires an assessor to maintain the records prescribed by the regulations in relation to each vehicle damage assessment and provides for an authorised officer to direct a person to produce those records and creates an offence (maximum penalty \$2,200) if a person fails to maintain those records or to comply with any such direction.

Proposed section 16N creates an offence (maximum penalty \$27,500 for a corporation and \$5,500 for an individual and double those amounts in the case of a second or subsequent offence) if a person induces, attempts to influence, or coerces the making of a false vehicle damage assessment or the making of a vehicle damage assessment that does not comply with proposed Part 2AA.

Proposed section 16O creates an offence (maximum penalty \$2,200) if an assessor fails to take reasonable steps to remove, deface, obliterate or destroy the vehicle identifier on any part of a vehicle assessed as being a total loss if required to do so by the RTA.

Proposed section 16P creates an offence (maximum penalty \$2,200) if an assessor fails to attach a written-off warning label to any vehicle that is in the person's possession or control that has been assessed as being a total loss.

#### **Division 4 General**

Proposed section 16Q provides for the issue of a certificate of compliance in relation to the repairs carried out on a written-off vehicle. Such certificates are issued by persons who are licensed repairers (under the *Motor Vehicle Repairs Act 1980*), but only if the repairer's licence authorises the repair of that type of vehicle, and the relevant type of vehicle damage, and the licensed repairer is satisfied that the standard of repairs, and the repair methods used, are in accordance with the requirements adopted by or set out in the regulations. The proposed section creates offences (maximum penalty \$2,200) of issuing a false or misleading certificate of compliance or making false statements or misrepresentations in obtaining a certificate of compliance and specifies the consequences of the issue of a certificate in such circumstances. The section also creates an offence (maximum penalty \$110,000) if an unlicensed person purports to issue a certificate of compliance.

Proposed section 16R provides for access to the register of written-off vehicles.

Proposed section 16S creates an offence (maximum penalty \$27,500) in respect of unauthorised access to or interference with the register of written-off vehicles.

Proposed section 16T creates an offence (maximum penalty \$2,200) in respect of the unauthorised disclosure of information obtained in connection with the administration or execution of proposed Part 2AA and authorises disclosure of information on the register of written-off vehicles to Austroads for the purposes of the national database of written-off vehicles.

Proposed section 16U provides for the evidentiary value of a certificate purporting to have been issued by an Australian Authority or Australian authorised officer that a

Explanatory note page 5  
Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Bill 2010  
Explanatory note

specified vehicle was or was not on the register of written-off vehicles or an interstate register.

Proposed section 16V inserts specific regulation-making powers relating to matters dealt with by proposed Part 2AA and provides for the making of regulations to create exemptions from all or part of that proposed Part.

**Schedule 1 [3]** provides for the making of savings or transitional regulations consequent on the enactment of the proposed Act.

**Schedule 1 [4]** inserts savings and transitional provisions concerning the register of written-off vehicles, exempting certain written-off vehicles from the need for an authorisation to repair or a certificate of compliance and the use of the term

repairable written-off vehicle.

**Schedule 2 Amendment of Motor Vehicle Repairs Act 1980 No 71**

**Schedule 2** amends the *Motor Vehicle Repairs Act 1980* as a consequence of the fact that proposed Part 2AA of the *Road Transport (Vehicle Registration) Act 1997* provides for the issue of certificates of compliance by persons who are licensed motor vehicle repairers under the *Motor Vehicle Repairs Act 1980*.

**Schedule 2 [1]** inserts a definition of **certification work**, which is defined to mean work relating to the issue of a certificate of compliance under proposed Part 2AA of the *Road Transport (Vehicle Registration) Act 1997*.

**Schedule 2 [2]** provides that the grounds on which a licensed motor vehicle repairer may be the subject of disciplinary proceedings include that the licence holder has been convicted of an offence against, or may have failed to comply with, the proposed provisions about certificates of compliance.

**Schedule 2 [3] and [4]** enable the Motor Vehicle Repair Industry Authority to require information to be provided to it that relates to the issue of a certificate of compliance.

**Schedule 2 [5]** provides for police officers and inspectors to enter premises and conduct examinations if they suspect a contravention of proposed Part 2AA of the *Road Transport (Vehicle Registration) Act 1997* or the regulations made under that proposed Part.

**Schedule 2 [6]** provides for inspectors to require the production of records if they suspect a contravention of proposed Part 2AA of the *Road Transport (Vehicle Registration) Act 1997* or the regulations made under that proposed Part.

**Schedule 2 [7]** provides for the disclosure to the RTA of information obtained in connection with the administration or execution of the *Motor Vehicle Repairs Act 1980* if the information relates to certification work.

Explanatory note page 6

Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Bill 2010

Explanatory note

**Schedule 3 Amendment of Road Transport (General) Act 2005 No 11**

**Schedule 3** amends the *Road Transport (General) Act 2005* as a consequence of the fact that written-off vehicles will now be dealt with under the *Road Transport (Vehicle Registration) Act 1997*.

**Schedule 3 [1], [3], [4] and [5]** omit provisions about written-off and wrecked vehicles. Such matters will now be dealt with under proposed Part 2AA of the *Road Transport (Vehicle Registration) Act 1997*.

**Schedule 3 [2]** applies the general investigative powers set out in Part 4.2 of the *Road Transport (General) Act 2005* to obligations and functions under proposed Part 2AA of the *Road Transport (Vehicle Registration) Act 1997*. Those powers, which include inspection and search powers, and powers to issue directions to produce records or information, will apply for the purposes of allowing an authorised officer to find out whether proposed Part 2AA is being complied with or to investigate a suspected breach of that proposed Part.