

## **Explanatory note**

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

### Overview of Bill

The *Road Transport (General) Act 2005* (**the NSW Act**) requires the Roads and Traffic Authority (**the RTA**) to keep a register of written-off and wrecked motor vehicles. The RTA, like other Australian driver licensing and vehicle registration authorities, transmits the information on its register to a national database of written-off vehicles. This allows jurisdictions immediate access to written-off vehicle information on the written-off vehicles registers of other States and Territories.

The object of this Bill is to amend the NSW Act so as to accord, generally, with a national system of notifying, registering and managing written-off vehicles.

In particular, this Bill:

- (a) makes the terms and categories used in the NSW Act (such as “late model vehicle”, “total loss”, “written-off vehicle”, “statutory write-off” and “repairable write-off”) consistent with those used in the laws of the other States and Territories, and
- (b) enables the body maintaining the national database to have access to the details on the NSW written-off vehicles register, and
- (c) enables the RTA (where appropriate) to correct errors in or omissions from certain information about written-off vehicles placed on the NSW register or compulsorily notified to the RTA, and
- (d) requires certain persons who are self-insurers with respect to vehicles to notify the RTA of any vehicle they have determined to be a total loss or disposed of to an auto-dismantler (that is, any vehicle they have written-off), and
- (e) requires the RTA to refuse to register, or cancel the registration of, and to refuse to renew or transfer the registration of, a vehicle that has the same vehicle identifier as another vehicle that is listed in the NSW register, or an interstate register, as a statutory write-off, and
- (f) requires written-off warning labels to be attached to vehicles that are statutory write-offs.

### 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 appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Road Transport (General) Act 2005* set out in Schedule 1.

**Clause 4** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by the Act.

### **Schedule 1 Amendments**

**Schedule 1 [4]** transfers the current provisions of the NSW Act dealing with unauthorised use of vehicles to a more appropriate location.

**Schedule 1 [5]** replaces the current provisions of the NSW Act dealing with written-off and wrecked vehicles with the following provisions:

#### **Part 6.2 Written-off vehicles**

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

Proposed section 249 restates the objects of the provisions of the NSW Act dealing with written-off vehicles so as to include the alignment of NSW with the other States and Territories in relation to the principles for the notification, registration and management of written-off vehicles and information about them.

Proposed section 250 contains definitions used in the proposed Part. This involves the adoption of nationally agreed definitions, so that the terms used in the provisions

of the NSW Act concerning written-off vehicles are consistent with those used in the rest of Australia and a national system of notifying and registering such vehicles can be effectively maintained.

#### **Division 2 Register of written-off vehicles**

Proposed section 251 requires the RTA to keep a register of written-off vehicles (***the register***), which includes information notified to the RTA under the proposed Part.

The section differs from the current section 255 (Register of written off and wrecked motor vehicles) in that the register is required to record, in relation to a vehicle, whether the vehicle is a ***statutory write-off*** or a ***repairable write-off***.

Proposed section 252 enables the RTA to correct errors in or omissions from information provided to the RTA under proposed Division 3, before or after it is placed on the register. This includes, but is not limited to, a change in the categorisation of a vehicle from being a statutory write-off to being a repairable write-off (or vice versa), but only if certain conditions are met.

Proposed section 253 relates to access to the register. Access is not generally available to members of the public. The section lists the circumstances in which access may be provided. The section differs from the existing law (in current section 255 (6)) in that it also empowers the RTA to allow Austroads Incorporated (the association of Australian and New Zealand road transport and traffic authorities) to have access to the register for the purposes only of its national database of written-off vehicles and information about them.

Proposed section 254 prohibits unauthorised access to, or interference with, the register.

#### **Division 3 Requirements to provide Authority with information about written-off, demolished or dismantled vehicles**

Proposed section 255 limits the obligations in the proposed Division, to provide the RTA with information about written-off, demolished or dismantled vehicles, to information concerning certain ***late model vehicles*** only.

Proposed sections 256, 257, 258 and 259 require an insurer, self-insurer, auto-dismantler or dealer to provide the RTA, in certain circumstances, with information concerning each late model vehicle that is determined to be a total loss. The sections require the person who makes the determination to determine that the vehicle is either a statutory write-off or a repairable write-off. The sections avoid the need for duplicate provision of information by providing that, in certain circumstances, a person is not guilty of an offence in respect of a failure to provide information concerning a vehicle if the person believes on reasonable grounds that the information had already been provided by another person.

Proposed section 260 provides for the regulations to extend the obligations to provide information in the proposed Division to other persons.

Proposed section 261 provides that an insurer, self-insurer, auto-dismantler or dealer who is required to provide information to the RTA in relation to a written-off vehicle may use an agent to provide that information to the RTA, but makes it clear that the insurer, self-insurer, dealer or auto-dismantler concerned (and not the agent) remains responsible for the timeliness and accuracy of the provision of the information.

#### **Division 4 Restrictions on registration of certain vehicles**

At present, section 263 of the NSW Act enables the RTA to refuse to register under the *Road Transport (Vehicle Registration) Act 1997* any vehicle if its vehicle identifier is the same as the vehicle identifier of a vehicle that has been listed on the register as being a written-off or wrecked vehicle.

Proposed section 262 instead requires the RTA to refuse to register, or renew or transfer the registration of, any vehicle if its vehicle identifier is the same as that of a vehicle that is noted on the register as being a statutory write-off or that the RTA is aware is listed on an interstate register of written-off vehicles in a category of

written-off vehicles that corresponds to the category of statutory write-off. The new section also requires the RTA to cancel the existing registration of a vehicle if it becomes aware that those circumstances apply in respect of the vehicle.

**Division 5 Attaching written-off warning labels to statutory write-offs**

Proposed section 263 provides that the proposed Division requiring written-off warning labels applies only in relation to statutory write-offs.

Proposed section 264 imposes a requirement on insurers, self-insurers, dealers and auto-dismantlers to attach written-off warning labels to written-off vehicles that are statutory write-offs.

Proposed section 265 makes provision for the making of regulations concerning written-off warning labels.

Proposed section 266 provides that an insurer, self-insurer, auto-dismantler or dealer who is required to attach a written-off warning label to a written-off vehicle may use an agent to attach that label, but makes it clear that the insurer, self-insurer, dealer or auto-dismantler concerned (and not the agent) remains responsible for failing to attach a written-off warning label.

**Division 6 General**

Proposed section 267 empowers the RTA and the regulations to require insurers, self-insurers, auto-dismantlers, dealers or other persons to remove, deface, obliterate or destroy the vehicle identifier of a written-off vehicle.

Proposed section 268 prohibits the unauthorised disclosure of information obtained in connection with the administration or execution of the proposed Part. A new feature is that the section authorises disclosure of information on the register to Austroads Incorporated for the purposes of the national database of written-off vehicles and information about them.

Proposed section 269 provides for the regulations to vary the application of the proposed Part.

Proposed section 270 provides for the RTA to exempt any person from the operation of all or any provisions of the proposed Part.

**Schedule 1 [1] and [2]** make consequential amendments to a regulation-making power.

**Schedule 1 [3]** updates the language used in a provision about certificate evidence.

**Schedule 1 [6]** provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act.

**Schedule 1 [7]** updates a reference to the existing register in a savings provision.

**Schedule 1 [8]** inserts savings and transitional provisions consequent on the enactment of the proposed Act, which relate to the changes that will need to be made to the existing register to reflect the new statutory scheme.