

# CONTROL OF VEHICLES (OFF-ROAD AREAS) AMENDMENT BILL 2024

## EXPLANATORY MEMORANDUM

### OVERVIEW OF THE BILL

The *Control of Vehicles (Off-road Areas) Amendment Bill 2024* (the Bill) will introduce reform to the registration scheme for Off-Road Vehicles (ORVs), introduce the option of registration stickers as an alternative to registration plates, and provide greater penalties to deter antisocial and illegal ORV activity.

Riders are currently required to attend a Department of Transport licensing centre to register, renew or transfer their ORV, due to the *Control of Vehicles (Off-road Areas) Act 1978* (ORV Act) mandating a statutory declaration.

The Bill removes the existing requirement for a statutory declaration to be completed, so that these transactions can be completed online.

Registration stickers are also being introduced as an alternative option to a registration plate. This option responds to requests from ORV users and advocacy groups.

The existing penalties within the ORV Act have remained largely unchanged since 1978 and have fallen behind comparable enforcement measures under the *Road Traffic (Vehicles) Act 2012* and Road Traffic Code. The current maximum for a Court-imposed penalty is \$1,000, a maximum of \$100 for offences against the Regulations and a \$50 maximum for modified penalties.

The Bill will increase all penalties under the ORV Act to a maximum Court-imposed penalty of \$5,000.

## **CLAUSE NOTES**

Contained below is a brief description of each clause contained in the Control of Vehicles (Off-road Areas) Amendment Bill 2024 (the Bill).

### **Clause 1 – Short title**

Clause 1 cites the short title of the legislation, the *Control of Vehicles (Off-road Areas) Amendment Bill 2024*.

### **Clause 2 – Commencement**

Paragraph (a) provides that sections 1 and 2 come into operation on the day on which the Act receives the Royal Assent.

Paragraph (b) provides sections 3, 5(4), 7(2), 9 to 12, 14 and 15 come into operation on the day after assent day.

Paragraph (c) provides that the remainder of the Act will come into effect on a day to be fixed by proclamation to allow for the necessary administrative arrangements to be made for commencement.

### **Clause 3 – Act amended**

This clause amends the *Control of Vehicles (Off-road Areas) Act 1978*.

### **Clause 4 – Section 28A amended**

Subclause (1) deletes section 28A(1)(b) to remove the requirement for a statutory declaration to register, renew or transfer an ORV.

Subclause (2) amends section 28A(2)(b) to allow a registration label to be issued to display the ORV registration, as an alternative option to the existing registration plate.

### **Clause 5 – Section 29A amended**

Subclause (1)(a) amends the method of notification in section 29A(1)(a) from “writing” to “the approved form” in regard to the previous ORV owner notifying the Director General of an ORV transfer. This will facilitate the environment to allow online transfers to occur.

Subclause (1)(b) inserts “(if any)” after “plate” in section 29A(1)(b), which amends the existing plate registration return process (for non-payment of registration fee) by allowing for the situation which a registration label had been issued in lieu of a registration plate.

Subclause (2) amends the method of notification in section 29A(2) from “writing” to “the approved form” in regard to the new ORV owner notifying the Director General of an ORV transfer. This will facilitate the environment to allow online transfers to occur.

Subclause (3) inserts “(if any)” after “issued” in section 29A(3)(b) which amends the existing plate registration return process (if the previous owner failed to give notice of the transfer) by allowing for the situation where a registration label had been issued in lieu of a registration plate. A registration certificate only (existing requirement) would be required to be returned in this situation.

Subclause (4) inserts a \$5,000 penalty at the end of section 29A(5) for failing to notify the Director General of an ORV transfer. The previous penalty applicable for this offence was the previous general maximum penalty of \$1,000.

#### **Clause 6 – Section 31 amended**

Subclause (1) inserts “(if any)” after “plate” in section 31(2) to account for the return of a registration plate upon a failed payment but a registration label had been issued originally. A registration certificate only (existing requirement) would be required to be returned in this situation.

Subclause (2) inserts “or label” after “plate” in section 31(3)(b) to restrict the ongoing use, or allowing another person the use of an ORV registration in the situation where an ORV registration return demand by the Director General has been made. This will now apply to capture those registered with a label.

#### **Clause 7 – Section 34 amended**

Subclause (1)(a) provides for the inclusion of a label under section 34(1) which requires a person to display ORV registration if the ORV is ridden in an area where an ORV registration is required. Failure to do so constitutes an offence.

Subclause (1)(b) provides for the inclusion of a label in section 34(1) which requires that a person’s ORV registration plate/label complies with any prescribed requirement relating to it.

Subclause (2) inserts a \$5,000 penalty at the end of section 34(1) for failing to display the ORV registration plate or label in accordance with the requirements of section 34(1). The previous penalty applicable for this offence was the previous general maximum penalty of \$1,000.

#### **Clause 8 – Section 35 amended**

Paragraph (a) provides that a registration label is now included (in addition to the existing plate) under section 35(a)-(b) for other offences related to wilful damage or defacing of the plate/label as well as causing or permitting a plate/label to be attached to another vehicle than which it was issued.

Paragraph (b) inserts “(if any)” after “plate” in section 35(c) which provides for a person who has only been issued a registration label when offence for non-return of a registration plate if it was issued.

Paragraph (c) provides that a registration label is now included (in addition to the existing plate) under section 35(d) for other offences related to attaching counterfeit or false plates (or labels) not issued under the ORV Act in respect of that vehicle.

**Clause 9 – Section 37 amended**

This clause amends section 37(10) in regard to the existing maximum penalty for modified penalties through Regulations or local laws made under the Act from \$50 to an amount not exceeding 10% of the penalty prescribed in the Act. Consequently, this amount will be \$500 due to the amending of all penalties in the Act to \$5,000.

Changes to the actual modified penalties set in Regulations or on local laws will require those instruments to be separately amended on a date after the commencement of this section.

**Clause 10 – Section 41 deleted**

This clause deletes section 41, which provides a general penalty not exceeding \$100 for offences against the Act where no penalty is expressly provided in the Act. This is being deleted as all offences will now expressly provide a penalty of \$5,000.

**Clause 11 – Section 46 amended**

This clause provides that a regulation or local law made under the Act can make provision for a penalty up to \$500, amending the current amount of \$100 in section 46(2). This will align with the increases to penalties throughout the Act.

Changes to the actual modified penalties set in local laws will require those local laws to be separately amended on a date after the commencement of this section.

**Clause 12 – Section 48 amended**

This clause replaces \$100 with \$500 in section 48(2) in relation to offences against the Regulations. This will align with the increases to penalties throughout the Act.

Changes to the actual modified penalties set in Regulations will require the Regulations instruments to be separately amended on a date after the commencement of this section.

**Clause 13 – Section 50 inserted**

This clause inserts transitional provisions related to section 29A(1)(a) and (2), which provides that an ORV owner that had given notice to the Director General “in writing” prior to the commencement of the Act is not bound by the new requirements to give notice in “the approved form” regarding an ORV transfer.

## Clause 14 – Various penalties amended

This clause amends all existing penalties for offences against the Act which were not amended in aforementioned clauses in the Bill. This amount is \$5,000 for all penalties.

Provision	Description of Existing Offence	Delete	Insert
s. 6(1)	A person shall not drive an ORV except on private land by consent, or in a permitted area (ORV area).	Penalty: \$500.	Penalty for this subsection: a fine of \$5 000.
s. 6(2)	A person shall not drive an ORV in prohibited area.	Penalty: \$1 000.	Penalty for this subsection: a fine of \$5 000.
s. 6(4)	A person shall not drive an ORV on any land in a way that creates undue or excessive noise.	Penalty: \$200.	Penalty for this subsection: a fine of \$5 000.
s. 7(2)	A person shall not fail to register an ORV or drive an unregistered ORV.		
s. 9	A person shall not drive a vehicle on land which the ORV Act applies if the vehicle is constructed in a way that is likely to cause danger to any person or to property.	Penalty: \$500.	Penalty for this subsection: a fine of \$5 000.
s. 9A(1)	A person shall not drive an ORV if the ORV is not fitted with seatbelts for all seats unless the ORV is a motorcycle or the ORV is driven on private land.	Penalty: \$200 for a first offence and \$400 for a second or subsequent offence.	Penalty for this subsection: a fine of \$5 000.
s. 9B(1)(2) s. 9C(1)	9B(1) A person shall wear a seatbelt if they are driving an ORV unless ORV is a motorcycle or the ORV is driven on private land.  9B(2) A person shall wear a seatbelt if they are the passenger of an ORV unless all seats with a seatbelt are occupied, the	Penalty: \$400 for a first offence and \$800 for a second or subsequent offence.	Penalty for this subsection: a fine of \$5 000.

	<p>ORV is a motorcycle or the ORV is driven on private land.</p> <p>9C(1) A driver of an ORV (motorcycle) and passengers shall wear a helmet.</p>		
s. 10	A person shall not knowingly permit a person under the age of 8 to drive an ORV, other than on private land by consent.	Penalty: \$200	Penalty for this subsection: a fine of \$5 000.
s. 19(3)	A person shall not destroy, damage, alter, move, or interfere with any notice or mark erected to mark the boundary of a permitted ORV area.	Penalty: \$100	Penalty for this subsection: a fine of \$5 000.
s. 20(4)	A person shall not drive an ORV in a permitted area unless compliant with all regulations, local laws and any other conditions imposed.	Penalty: \$200.	Penalty for this subsection: a fine of \$5 000.
s. 29(11)	A person shall not make a false or misleading statement in relation to the registration of an ORV.		
s. 31(3)	A person must return a certificate of registration or number plate if a demand has been made.	Penalty: For a first offence a fine not exceeding \$40; for any subsequent offence, a fine not exceeding \$100.	Penalty for this subsection: a fine of \$5 000.
s. 34(2)	A person driving a vehicle licensed under the <i>Road Traffic (Vehicles) Act 2012</i> must display that registration plate if driven on areas generally regulated under the ORV Act.	Penalty: \$200	Penalty for this subsection: a fine of \$5 000.
s. 35	Other offences related to registration plates, including wilful damage or defacing of the plate/label as well as		

	causing or permitting a plate/label to be attached to another ORV than which it was issued.		
s. 37(8)	A person shall not remove any infringement notice affixed to an ORV by an authorised person unless they are the owner of the ORV or responsible for the owner of the ORV.	Penalty: \$50.	Penalty for this subsection: a fine of \$5 000.
s. 38(6)(10)	(6) A person shall not wilfully obstruct any authorised person or an honorary inspector acting in the execution of the ORV Act.  (10) A person shall not use an ORV that is subject to a notice given from an authorised person instructing the person to not use the vehicle unless compliant with a condition of the notice.	Penalty: \$200	Penalty for this subsection: a fine of \$5 000.

**Clause 15 – Various references to “shall” amended**

This clause replaces various instances of “shall” with “must” throughout the Act to align with current drafting practice.