

Road Transport (General) (Guidelines about withdrawal infringement notices) Determination 2011

Disallowable instrument DI2011—33

made under the

Road Transport (General) Act 1999, section 32(1) (Guidelines about withdrawal of infringement notices)

EXPLANATORY STATEMENT

This instrument determines guidelines for withdrawal of public passenger infringement notices. Section 30 of the *Road Transport (General) Act 1999* (the Act) provides that a person on whom an infringement notice has been served may apply to the administering authority for the offence for the withdrawal of the notice. Section 31 of the Act provides for the authority to withdraw infringement notices, while section 32 of the Act provides that the Minister may issue guidelines for the withdrawal of infringement notices. The authority for an infringement notice offence must comply with any guidelines applying to that offence. A determination under section 32 is a disallowable instrument.

Clause 1 sets out the name of the instrument, and clause 2 explains that it commences the day after its notification.

Clause 3 determines that the Schedule contains the Guidelines for withdrawing infringement notices relating to breaches of the road transport legislation dealing with public passenger service providers.

Clause 4 defines the term ‘public passenger service infringement notice’. These are notices issued for certain offences against the *Road Transport (Public Passenger Services) Act 2001* and the *Road Transport (Public Passenger Services) Regulation 2002*. An offence may be dealt with by way of infringement notice if an infringement penalty amount has been specified in the corresponding item for that offence in column 5 of the table in the relevant part of the Schedule 1 of the *Road Transport (Offences) Regulation 2005*. Part 1.10 of Schedule 1 of that Regulation lists offences under the *Road Transport (Public Passenger Services) Act 2001*, while part 1.11 of Schedule 1 lists offences under the *Road Transport (Public Passenger Services Regulation) 2002*.

As mentioned previously, the Schedule to the instrument contains the Guidelines for withdrawing public passenger vehicle infringement notices. These Guidelines cover a range of circumstances, including:

- factual errors in the infringement notice itself;
- administrative factors that mitigate the applicant's responsibility for the offence;
- emergency factors that mitigate the applicant's responsibility for the offence;
- the applicant's previous good behaviour;
- that the authority is required by law to withdraw a disputed infringement notice because it has not commenced proceedings for the offence within 60 days after being notified that liability is disputed; or
- whether there is sufficient evidence to substantiate the offence.