

1990 - No. 512

TRAFFIC ACT 1909 - REGULATION

(Relating to seizure of motor vehicles)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Traffic Act 1909, has been pleased to make the Regulation set forth hereunder.

BRUCE BAIRD
Minister for Transport.

The Motor Traffic Regulations 1935 are amended by inserting after Regulation 58 the following Regulation:

Seizure of motor vehicles by council employees

58A. (1) In this Regulation:

"business day" means any day except:

- (a) a Saturday or Sunday; or
- (b) a day that is observed as a public holiday throughout the State;

"designated public street" means any of the following streets (or portions of streets) in Kings Cross in the City of South Sydney

Amos Lane
Barncleuth Square
Bayswater Road, between Ward Avenue and Roslyn Street
Brougham Street
Earl Place
Hughes Street

Kings Cross Road
Manning Street
McDonald Street
Orwell Street
Rockwall Crescent
Tusculum Street
Victoria Street;

"enforcement officer" means the Town Clerk of the Council of the City of South Sydney or an employee of that Council authorised by the Town Clerk to be an enforcement officer for the purposes of this Regulation.

(2) An enforcement officer may seize and take charge of and remove or tow away or cause to be removed or towed away any motor vehicle which has been caused or permitted to stand, wait, stop or to be parked contrary to law in any part of a designated public street in which is conspicuously displayed a sign exhibiting or including the words "tow away area" or "vehicles impounded" or other words indicating that such a vehicle is subject to seizure.

(3) Any motor vehicle so removed or towed away may be kept or impounded at any place appointed or set apart by the Commissioner of Police for the purpose.

(4) Before seizing a motor vehicle the enforcement officer must:

- (a) if no person is in charge of the vehicle, make reasonable inquiry for the purpose of locating the owner or driver of the vehicle; and
- (b) if on such inquiry the owner or driver of the vehicle is located, request the owner or driver to remove the vehicle or cause it to be removed forthwith and give the owner or driver a reasonable opportunity to comply with the request; and
- (c) if any person is in charge of the vehicle, request the person to remove the vehicle or cause it to be removed forthwith and give the person a reasonable opportunity to comply with the request.

(5) The inquiry referred to in clause (4) (a) is to be made in the vicinity of the place where the vehicle is found but that clause is not to be construed to require an enforcement officer to enter any building for the purpose of the inquiry.

(6) As soon as practicable after the seizure of a motor vehicle the enforcement officer must:

- (a) give the Commissioner notice of the seizure containing a description of the vehicle to which it relates (including particulars on any registration label and number-plate attached to the vehicle and any identification number stamped on or applied to the engine); and
- (b) request the Commissioner to supply to the enforcement officer any particulars known or available to the Commissioner of the name and address of the owner of the vehicle.

(7) The Commissioner is to give the enforcement officer the requested particulars within 3 business days of receipt of the notice.

(8) If the name and address of the owner of the vehicle are supplied by the Commissioner, the enforcement officer must, within a period of 14 days after the seizure, send or cause to be sent to the owner a notice setting out particulars of the time, date and place of the seizure and the place where the vehicle is kept or impounded.

(9) If the name and address of the owner of the vehicle are not so supplied, the enforcement officer must:

- (a) within a period of 14 days after the seizure, send or cause to be sent to the owner if the owner can, after reasonable inquiry, be located a notice setting out the particulars set out in clause (8); and
- (b) if the owner cannot, after reasonable inquiry, be located, cause a notice setting out those particulars to be published in a newspaper circulating in the City of South Sydney.

(10) Application for the release of a motor vehicle kept or impounded under this Regulation is to be made by the owner of the motor vehicle or by a person acting for or on behalf of the owner to the Town Clerk at an office of the Council of the City of South Sydney during office hours on a business day.

(11) The application is to be dealt with by the Town Clerk or by some other enforcement officer designated by the Town Clerk.

(12) The applicant is to furnish evidence as to the ownership of the motor vehicle to the satisfaction of the enforcement officer to whom the application is made.

(13) The motor vehicle is not to be released from custody unless:

- (a) the enforcement officer dealing with the application is satisfied that the applicant is the owner of the motor vehicle or that the applicant possesses authority to act for or on behalf of the owner; and
- (b) any amount payable under a notice under section 18B of the Act served on the owner in respect of an offence under these Regulations of standing or parking the motor vehicle (or of causing or permitting the motor vehicle to stand, wait or park) in that portion of the designated public street from which the motor vehicle was removed or towed away has been paid; and
- (c) the appropriate amount fixed by the Commissioner as the amount payable in respect of the seizure, taking charge of, removal, towing away, keeping, impounding or releasing of the motor vehicle has been paid to the enforcement officer to whom the application is made; and
- (d) the applicant has signed a receipt for the delivery of the motor vehicle on a form supplied to the applicant by the enforcement officer to whom the application is made.

(14) If, within a period of 3 months after the date on which the motor vehicle has been seized, the owner has failed to claim the motor vehicle and to pay the appropriate amount, the motor vehicle may, after the expiration of the period, be disposed of or destroyed in accordance with the directions of the Town Clerk or the Council of the City of South Sydney.

(15) For the purposes of clause (13) (b), an amount is not to be taken to be payable under a notice under section 18B of the Act unless the requirements of paragraphs (a)-(d) of section 18C (1) have been complied with.

EXPLANATORY NOTE

The object of this Regulation is to enable certain employees of the Council of the City of South Sydney to seize motor vehicles (for example, camper vans) parked contrary to law in those parts of designated streets in Kings Cross indicated by signs to be "tow away areas" or by other words indicating that such motor vehicles are subject to seizure. The employees will be able to exercise functions similar to those that may be exercised by police officers under Regulation 58 of the Motor Traffic Regulations 1935.
