

1990 - No. 93

**ROAD OBSTRUCTIONS (SPECIAL PROVISIONS) ACT
1979 - REGULATION**

(Road Obstructions (Special Provisions) Regulation 1990)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Road Obstructions (Special Provisions) Act 1979, has been pleased to make the Regulation set forth hereunder.

N. F. GREINER
Premier.

Citation

1. This Regulation may be cited as the Road Obstructions (Special Provisions) Regulation 1990.

Definition

2. In this Regulation:

"**the Act**" means the Road Obstructions (Special Provisions) Act 1979.

Notice of impounding

3. (1) Where a motor vehicle, part of a motor vehicle or any goods on a motor vehicle or part of a motor vehicle seized under section 5 (1) of the Act is or are impounded under section 5 (3) of the Act, the

Commissioner of Police must cause notice to be given or published in accordance with this clause.

(2) If the name and address of the owner of the vehicle or part of the vehicle are recorded at the office of the Roads and Traffic Authority in respect of the registration (if any) of the vehicle or part of the vehicle, notice must be sent, within a period of 14 days after the seizure, to that owner advising particulars of the time, date and place of the seizure and the place where the vehicle or part of the vehicle is impounded.

(3) If the name and address of the owner of the vehicle or part of the vehicle are not so recorded or in the case of seizure of any goods on a vehicle or part of a vehicle:

- (a) notice must be sent, within a period of 14 days after the seizure, to the owner of the vehicle or part of the vehicle, or to the owner of the goods, if the owner can, after reasonable inquiry, be located, advising particulars of the time, date and place of the seizure and the place where the vehicle, part of the vehicle or goods is or are impounded; or
- (b) if the owner of the vehicle or part of the vehicle or of the goods cannot, after reasonable inquiry, be located, a notice setting out the particulars of the time, date and place of the seizure and the place where the vehicle, part of the vehicle or goods is or are impounded must be published in a daily newspaper published in Sydney and circulating generally throughout New South Wales.

Release

4. (1) Except in the case of a motor vehicle or part of a motor vehicle or goods which is or are dealt with under subclause (2), the following conditions must be observed before the release of a motor vehicle, a part of a motor vehicle or goods impounded under section 5 (3) of the Act:

- (a) application for the release must be made in writing by the owner of the motor vehicle or part of the motor vehicle or of the goods, or by a person acting for or on behalf of that owner, to an officer-in-charge of the place at which the vehicle, part of the vehicle or goods is or are impounded (in this subclause referred to as the "**officer-in-charge**");

- (b) the applicant must furnish, to the satisfaction of the officer-in-charge, evidence as to the ownership of the motor vehicle, part of the motor vehicle or goods and, if the applicant is acting for or on behalf of the owner, evidence of the applicant's authority so to act;
- (c) the motor vehicle, part of the motor vehicle or goods are not to be released from custody unless:
 - (i) the officer-in-charge is satisfied that the applicant is the owner of the motor vehicle, part of the motor vehicle or goods or that the applicant possesses authority to act for or on behalf of that owner; and
 - (ii) the fee fixed by the Commissioner of Police for releasing the motor vehicle, part of the motor vehicle or goods has been paid to the officer-in-charge; and
 - (iii) the applicant has signed a receipt for the delivery of the motor vehicle, part of the motor vehicle or goods on a form supplied to the applicant by the officer-in-charge.

(2) If, within a period of 3 months after the date on which a motor vehicle, part of a motor vehicle or goods has or have been seized under section 5 (1) of the Act, the owner or a person acting for or on behalf of the owner has not obtained the release of the motor vehicle, part of the motor vehicle or goods, the motor vehicle, part of the motor vehicle or goods may, after the expiration of that period, be disposed of, whether by sale, destruction or otherwise, in accordance with the directions of the Commissioner of Police.

Compensation for damage

5. (1) Subject to subclause (2), the owner of any goods damaged by virtue of the exercise of any powers under the Act may lodge with the Commissioner of Police a claim in writing for compensation for that damage.

(2) Where a motor vehicle on which goods were being carried at the time of seizure under section 5 (1) of the Act:

- (a) does not include a trailer – the owner of the motor vehicle; or
- (b) includes a trailer – the owner of the part of the motor vehicle other than the trailer (whether or not that owner also owns the trailer),

is not entitled to make a claim under subclause (1).

(3) Any person having an interest in any land of which possession was taken under section 5 (2) of the Act may lodge with the Commissioner of Police a claim in writing in respect of any damage to that land, including damage to fencing, caused by any person in the exercise of any powers under the Act.

(4) The amount of compensation payable by the Commissioner of Police to a claimant under subclause (1) or (3) is to be included in the amount (if any) recovered under section 8 of the Act in respect of the claim by that claimant.

(5) The Commissioner of Police must pay to a claimant under subclause (1) or (3) compensation payable to that claimant under subclause (4).

Offence

6. Any person who wilfully makes any false or misleading statement or wilfully furnishes any false or misleading information in or with respect to:

- (a) obtaining the release of a motor vehicle, part of a motor vehicle or goods impounded under section 5 (3) of the Act; or
- (b) a claim under clause 5 (1) or (3),

is guilty of a breach of this Regulation and liable on conviction to a penalty not exceeding \$500.

NOTE

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EXPLANATORY NOTE

The objects of this Regulation are:

- (a) to specify the procedure for the giving of notice to the owners of motor vehicles and goods on motor vehicles which have been impounded under the Road Obstructions (Special Provisions) Act 1979; and
- (b) to specify the conditions for the release of motor vehicles and goods on motor vehicles which have been impounded under that Act; and
- (c) to make provision for compensation for damage; and
- (d) to create an offence of making a false or misleading statement in connection with the release of motor vehicles and goods on motor vehicles and claims for compensation.