

1994—No. 495

## TRAFFIC ACT 1909—REGULATION

(Relating to the issue of authorisations for the inspection of vehicles and to use premises as inspection stations)

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, M.P.  
Minister for Transport and Minister for Roads.

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### Commencement

1. This Regulation commences on 1st October 1994.

### Amendments relating to the inspection of motor vehicles

2. The Motor Traffic Regulations 1935 are amended:
  - (a) by omitting Regulation 92A and by inserting instead the following Regulations:

#### Definitions

92A. In this Division:

“**authorised examiner**” means a person authorised under Regulation 92AB;

“**authorised inspection station**” means premises which a person is authorised to use under Regulation 92AC;

“**authorised proprietor**” means a person authorised under Regulation 92AC;

“**examiner’s authority**” means an authority in force under Regulation 92AB;

**“proprietor’s authority”** means an authority in force under Regulation 92AC.

**Examiners’ authorities**

92AB. (1) The Authority may authorise in writing any person who, in its opinion, is suitably qualified:

- (a) to conduct inspections and tests of motor vehicles at authorised inspection stations for the purposes of determining whether or not the vehicles are suitable for safe use or comply with the requirements of the Act and these Regulations; and
  - (b) to issue inspection reports relating to those inspections.
- (2) An examiner’s authority:
- (a) applies to the inspection of motor vehicles generally or to the class or classes of motor vehicles specified in the authority; and
  - (b) remains in force until it is surrendered, suspended or cancelled; and
  - (c) is to be issued in the manner and in the form approved by the Authority.
- (3) An examiner’s authority, or a duplicate of such an authority, must not be issued unless:
- (a) the applicant for the authority or duplicate has paid to the Authority the appropriate fee prescribed in item 24 of Schedule A; or
  - (b) the Authority has exempted the applicant from payment of that fee.
- (4) The charge that may be made for the issue of an inspection report referred to in clause (1) must not be more than the maximum charge for the time being specified by the Authority.
- (5) A person must not:
- (a) conduct an inspection or test of a motor vehicle for the purpose of determining whether or not the vehicle is suitable for safe use or complies with the Act or these Regulations unless the person is the holder of an examiner’s authority; or
  - (b) issue an inspection report relating to such an inspection unless the person is the holder of an examiner’s authority.
- (6) An authority in force, and held by a person, under Regulation 92A (2) immediately before the commencement of this Regulation is taken to be an examiner’s authority held by the person.

**Proprietors' authorities**

92AC. (1) A person may be authorised in writing to use premises for the purpose of conducting inspections and tests of motor vehicles by authorised examiners if the Authority is satisfied that:

- (a) the premises and the equipment on the premises are suitable for that use; and
- (b) the person is competent to carry out the responsibilities associated with using the premises for that purpose.

(2) A proprietor's authority is either:

- (a) a proprietor's authority that is a component licence of a master licence under the Business Licences Act 1990; or
- (b) a proprietor's authority that is being administered under the Traffic Act 1909 in accordance with an authorisation under Part 2 of Schedule 2 to the Business Licences Act 1990.

(3) A proprietor's authority:

- (a) applies to the inspection of motor vehicles generally or to the class or classes of motor vehicles specified in the authority; and
- (b) remains in force until it is surrendered, suspended or cancelled; and
- (c) is:
  - (i) in the case of an authority referred to in clause (2) (a)—to be granted or refused (as the case requires) by the Director of Business Licences under the Business Licences Act 1990 as authorised by the Authority; or
  - (ii) in the case of an authority referred to in clause (2) (b)—to be issued or refused by, and, if issued, to be in the manner and in the form approved by, the Authority.

(4) A proprietor's authority referred to in clause (2) (b), or a duplicate of such an authority, must not be issued unless:

- (a) the applicant for the authority or duplicate has paid to the Authority the appropriate fee prescribed in item 24A of Schedule A; or
- (b) the Authority has exempted the applicant from payment of that fee.

(5) A person must not use premises for the purposes of conducting an inspection or test referred to in clause (1), unless the person is the holder of a proprietor's authority in force in respect of the premises.

(6) An authority in force, and held by a person, under Regulation 92A (3) immediately before the commencement of this Regulation is taken to be a proprietor's authority held by the person.

**Authority may issue rules for the purposes of this Division**

92AD. (1) The Authority may issue rules, not inconsistent with the Act or these Regulations, relating to all or any of the following:

- (a) the inspection and testing of motor vehicles to determine whether they are suitable for safe use or comply with the Act or these Regulations;
- (b) the issue of inspection reports;
- (c) the use of authorised inspection stations.

(2) The Authority may, from time to time, alter any rules so issued.

(3) A person, being an authorised examiner or an authorised proprietor, must comply with any such rules that are applicable to the person.

(4) If:

- (a) a person, not being an authorised examiner or an authorised proprietor, requests a copy of any such rules; or
- (b) an authorised examiner, or an authorised proprietor, to whom a copy of those rules has been issued requests a further copy,

the Authority must issue such a copy or further copy on payment of the fee prescribed by Schedule A. However, the Authority may issue a copy without fee in a particular case.

(5) Rules in force under Regulation 92A (8) immediately before the commencement of this Regulation are taken to have been issued and in force under this Regulation.

- (b) by omitting from Regulations 92B, 92C and 92E the matter "an authority referred to in Regulation 92A (2) or (3)" wherever occurring and by inserting instead the words "an examiner's authority or a proprietor's authority";
- (c) by omitting from Regulations 92B (1) and 92D (2A) the matter "referred to in Regulation 92A (8)" and by inserting instead the matter "in force under Regulation 92AD";

- (d) by omitting Regulation 92D (1) and by inserting instead the following clause:

(1) If an application for the issue of an examiner's authority or a proprietor's authority is refused, or if an examiner's authority or proprietor's authority is suspended or cancelled, the Authority must notify in writing the applicant or holder of the authority of the refusal, suspension or cancellation and of the grounds for it.

- (e) by inserting in Regulation 92D (1A) after the words "the Authority" the words "if it relates to a proprietor's authority that is a component licence of a master licence under the Business Licences Act 1990";

- (f) by omitting from Regulation 92D (5) the words "(other than an authority referred to in Regulation 92A (3))";

- (g) by inserting at the end of Regulation 92B (5) the following sentence:

This clause does not apply to a proprietor's authority that is a component licence of a master licence under the Business Licences Act 1990.

- (h) by omitting from Regulation 92D (6) the words "an authority referred to in Regulation 92A (3)" and by inserting instead "a proprietor's authority that is a component licence of a master licence under the Business Licences Act 1990";

- (i) by omitting Regulation 92G;

- (j) by omitting item 24 of Schedule A and by inserting instead the following items:

24.	Examiner's authority-Regulation 92AB (3):	
	(a) issue of authority .....	100
	(b) duplicate of authority .....	12
24A.	Proprietor's authority-Regulation 92AC (4):	
	(a) issue of authority .....	200
	(b) duplicate of authority .....	12

### **Amendments relating to wedding cars and mourning coaches**

#### **3. The Motor Traffic Regulations 1935 are further amended:**

- (a) by inserting in Regulation 2 in alphabetical order the following definitions:

**“Mourning coach”** means any motor vehicle that is owned and operated by a person who is carrying on a business of directing funerals and that is, except when used for private purposes, used only for conveying mourners to and from funeral services and functions related to funeral services.

**“Wedding car”** means any motor vehicle that is, except when used for private purposes, used only for conveying people to and from weddings and functions related to weddings.

- (b) by inserting after Regulation 94 (3) the following clause:
  - (4) Clause (3) does not apply to a mourning coach or a wedding Car.
- (c) by omitting item 6 (b) (iii) of Schedule A and by inserting instead the following subparagraphs:
  - (iii) in the case of a taxi-cab (not being a taxi-cab licensed under the Passenger Transport Act 1990 to operate in a transport district within the meaning of the Transport Administration Act 1988) ..... 122
  - in the case of a private hire car or other vehicle constructed principally for the conveyance of passengers (not being a wedding car or a mourning coach or a vehicle to which subparagraph (i), (ii) or (iii) applies) ..... 122
- (d) by inserting in item 7 (b) of Schedule A, immediately below the reference to item 6 (b) (iii), the following matter:
  - item 6 (b) (iv) ..... 35

#### Further amendments

##### 4. The Motor Traffic Regulations 1935 are further amended:

- (a) by omitting from all of the Regulations and Schedules (Regulations 12 (4) (a) (secondly occurring), 33, 34 (1) (c) and (g) (iii), 54 (6) (aa), 57 (1) and (3), 58 (1), (2) (firstly occurring), (3) (c) (ii) and (4), 58A (3), 80A (1), 81A (2) (c), 94B (5) (secondly occurring), 114 (1), 116 (b), 117T (1), 119A (3), 121 (2) and (3), 122 (1) and (3), 127A (2), 130A (1) (a) and (f1) and 137 (1) and the form in Schedule H excepted) the word “Commissioner” and by inserting instead the word “Authority”;
- (b) by omitting from Regulation 6 the word “Commissioner’s” and by inserting instead the word “Authority’s”;

- (c) by omitting from Regulation 54 (6) (aa) the words “Commissioner for Main Roads” wherever occurring and by inserting instead the word “Authority”;
- (d) by omitting from Regulation 92E (1) the words “court of petty sessions constituted by a stipendiary magistrate” and by inserting instead the words “Local Court constituted by a Magistrate”;
- (e) by omitting from Regulation 92E (3), (6), (7) and (9) the words “court of petty sessions”, wherever occurring, and by inserting instead the words “Local Court”;
- (f) by omitting from Regulation 127A (1) the words “Court of Petty Sessions, Phillip-street” and by inserting instead the words “Local Court, Downing Centre”;
- (g) by omitting from Regulation 127A (1) the words “Petty Sessions District” wherever occurring and by inserting instead the words “Local Courts District”;
- (h) by omitting from Regulation 127A (2) the words “Clerk of Petty Sessions of the Court” and by inserting instead the words “Clerk of the Local Court”;
- (i) by omitting from the form in Schedule H the words ““Clerk of Petty Sessions,” and by inserting instead the words ““Clerk of the Local Court at”;
- (j) by omitting from the form in Schedule H the words “Court of Petty Sessions holden” and by inserting instead the words “Local Court”;
- (k) by omitting from the form in Schedule H the matter “Motor Traffic Act 1909 as amended” wherever occurring and by inserting instead the matter “Traffic Act 1909”.

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#### EXPLANATORY NOTE

Prior to this Regulation, a person was required to pay a fee of \$364 for an authority to use premises as an inspection station for the inspection and testing of motor vehicles and was exempted from payment of the fee for an authority to conduct inspections and tests of motor vehicles. As a result of this Regulation, a fee of \$200 is payable for an authority to use premises as an inspection station and a fee of \$100 is payable for an authority to conduct inspections and tests of motor vehicles. This Regulation also makes other ancillary amendments to the Motor Traffic Regulations 1935 relating to authorities to use premises as inspection stations.

A further amendment to the Motor Traffic Regulations 1935 will mean that wedding cars and mourning coaches will no longer be subject to the same charges as buses, taxi-cabs and heavy vehicles but will be charged as ordinary motor cars for motor vehicle registration purposes.

This Regulation also updates references in the Motor Traffic Regulations 1935 to certain expressions, such as “Commissioner” and “Commissioner for Main Roads”.

This Regulation is made under the Traffic Act 1909, including section 3 (the general regulation-making power).

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