

1995—No. 139

TRAFFIC ACT 1909—REGULATION

(Relating to inspections and speed limiters)

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.

Commencement

1. This Regulation commences on 24 March 1995.

Amendments

2. The Motor Traffic Regulations 1935 are amended:

(a) by inserting after Regulation 93 (2) the following clause:

(3) In this Regulation, “**inspect**” in relation to a motor vehicle includes observe the vehicle’s performance, with or without the use of instrumentation.

(b) by inserting after Regulation 94 (4) the following clause:

(5) In this Regulation, “**inspect**” in relation to a motor vehicle includes observe the vehicle’s performance, with or without the use of instrumentation.

(c) by omitting Regulation 94B (1) and by inserting instead the following clause:

(1) In this Regulation:

“**inspect**” in relation to a motor vehicle includes observe the vehicle’s performance, with or without the use of instrumentation;

“**specified**” means specified in the direction.

(d) by inserting after Regulation 123E (1) the following clause:

(1A) If a police officer has reason to believe that a vehicle to which this Part applies is capable of being driven at a speed exceeding 105 km/h, the police officer may serve on the owner of the vehicle a notice under this Regulation.

(e) by inserting in Regulation 123E (2) after the words “the Authority” the words “or a police officer”;

(f) by omitting from Regulation 123E (3) the words “By a notice under this Regulation, the Authority may:” and by inserting instead the words “A notice under this Regulation may:”;

(g) by inserting after Regulation 123E (3) (b) the following matter:

; and

(c) require the owner on whom the notice was served to have the vehicle tested to determine whether the vehicle’s speed is limited in accordance with this Part and to provide a certificate to that effect in the manner and form specified in the notice.

EXPLANATORY NOTE

The objects of this Regulation are:

- (a) to make it clear that the inspection of a motor vehicle to determine whether it is safe or complies with the Traffic Act 1909 or the Motor Traffic Regulations 1935 includes observation of the vehicle when it is in normal use;
- (b) to make it clear that that observation may be by means of an instrument (e.g. a speed radar, in the case of an inspection to determine whether a speed limiter on the vehicle is functioning);
- (c) to enable a police officer (and not just the Roads and Traffic Authority, as at present) to serve notice on the owner of a vehicle that is required to be speed-limited to have the vehicle altered to ensure that it is properly speed-limited, whether there is a finding (or observation) that the vehicle has actually been driven at over 105 km/h or there are other grounds for believing that the vehicle is capable of exceeding 105 km/h;
- (d) to provide that such a defect notice may require testing of a vehicle and provision of a certificate as to the test.

This Regulation is made under section 3 of the Traffic Act 1909 and, in particular, section 3 (1) (a) and (g1).
