



New South Wales

Photo Card Regulation 2014

under the

Photo Card Act 2005

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Photo Card Act 2005*.

DUNCAN GAY, MLC
Minister for Roads and Freight

Explanatory note

The object of this Regulation is to remake, with minor changes, the *Photo Card Regulation 2005*, which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation does the following:

- (a) prescribes a fee for the issue of a Photo Card,
- (b) prescribes grounds for exemption from, and waiver of, payment of the fee,
- (c) prescribes grounds on which Roads and Maritime Services (*the Authority*) may cancel a Photo Card,
- (d) provides for the surrender of a Photo Card,
- (e) requires the holder of a Photo Card to notify the Authority if the holder changes his or her name or address, and makes it an offence for the holder to fail to do so,
- (f) prescribes purposes for which a photograph taken or provided in relation to an application for the issue of a Photo Card may be kept or used by the Authority,
- (g) provides that information of a personal nature contained in the Photo Card Register (*the Register*) may be released, despite a provision of the *Photo Card Act 2005* that provides for the security of such information, if the information could otherwise be released under privacy legislation,
- (h) permits release of information contained in the Register to Austroads Limited for the purposes of the National Exchange of Vehicle and Driver Information System,
- (i) prescribes certain offences as offences for which a penalty notice may be served.

This Regulation is made under the *Photo Card Act 2005*, including sections 5 (3), 11 (1) (e), 14 (6), 15, 18 (1) (g), 34 and 36 (the general regulation-making power).

Contents

	Page
1 Name of Regulation	3
2 Commencement	3
3 Definitions	3
4 Fee for Photo Card	3
5 Exemption from fee	3
6 Fee waiver by Authority	3
7 Cancellation of Photo Card	3
8 Surrender of Photo Card	4
9 Change of address or other particulars	4
10 Purposes for which photographs may be kept and used	4
11 Release of information of a personal nature	4
12 Release of information to Austroads	4
13 Penalty notice offences and penalties	5
14 Saving	5
Schedule 1 Penalty notice offences	6

Photo Card Regulation 2014

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1 Name of Regulation

This Regulation is the *Photo Card Regulation 2014*.

2 Commencement

This Regulation commences on 1 September 2014 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Photo Card Regulation 2005* which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

In this Regulation:

driver licence has the same meaning as in the *Road Transport Act 2013*.

the Act means the *Photo Card Act 2005*.

4 Fee for Photo Card

The fee prescribed for the issue of a Photo Card is:

- (a) in the case of a new Photo Card—\$50, or
- (b) in the case of a replacement Photo Card—\$24.

5 Exemption from fee

No fee is payable for the issue of a Photo Card to any of the following:

- (a) a person who holds a Seniors Card issued by the New South Wales government,
- (b) a person who is an *eligible pensioner* within the meaning of the *Motor Vehicles Taxation Act 1988*,
- (c) a person who lives in New South Wales and who receives a carer allowance under the *Social Security Act 1991* of the Commonwealth.

6 Fee waiver by Authority

The Authority may waive all or part of the fee for the issue of a Photo Card if it considers it appropriate to do so in the circumstances.

7 Cancellation of Photo Card

For the purposes of section 11 (1) (e) of the Act, the following grounds are prescribed:

- (a) the person has failed without reasonable excuse to comply with a requirement under section 16 (1) or (2) of the Act,

- (b) the person has been convicted of (or found guilty of or a guilty plea has been accepted for) an offence under the Act, or has paid a penalty under section 34 of the Act for an alleged offence,
- (c) the Photo Card of the person has been seized and retained under section 29 of the Act,
- (d) the person has been issued a driver licence.

8 Surrender of Photo Card

- (1) The holder of a Photo Card may surrender the Photo Card by returning it to the Authority (including for the purpose of having a driver licence issued).
- (2) A Photo Card that is surrendered in accordance with this clause ceases to have effect.

9 Change of address or other particulars

- (1) The holder of a Photo Card (*the holder*) must, no later than 14 days after a change in his or her name, residential address or address for service of notices, give to the Authority notice of the change.
Maximum penalty: 20 penalty units.
- (2) The notice need not be in writing unless required by the Authority.
- (3) A new residential address must be an address in this State at which the Authority may ordinarily make personal contact with the holder.
- (4) If there is no postal service to the holder's residential address, the holder must also provide an address for the service of notices.
- (5) No notice is required under this clause in respect of a Photo Card that has expired or has otherwise ceased to have effect.

10 Purposes for which photographs may be kept and used

A photograph to which Part 4 of the Act applies may be kept and used by the Authority for any purpose for which a photograph of a person taken for the purposes of Division 2 (Mobility parking scheme authorities) of Part 6 of the *Road Transport (General) Regulation 2013* may be kept and used.

11 Release of information of a personal nature

- (1) Section 15 of the Act does not prevent the release of information contained in the Register that is of a personal nature unless the privacy legislation would also prevent the particular release.
- (2) In this clause:
privacy legislation means the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002* and any regulations or codes of practice under either of those Acts.

12 Release of information to Austroads

- (1) Information contained in the Register may be released to Austroads for the purposes of the National Exchange of Vehicle and Driver Information System.
- (2) This clause does not authorise the release of any photograph to which Part 4 of the Act applies or any photographic image or other matter contained in any database of such photographs.

- (3) In this clause:

Austroads means Austroads Limited (ACN 136 812 390), and includes any successor to or continuation of that company.

13 Penalty notice offences and penalties

- (1) For the purposes of section 34 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is an offence for which a penalty notice may be served, and
- (b) the penalty prescribed for each such offence is the amount specified opposite the provision in Column 2 of the Schedule.

- (2) If the reference to a provision in Column 1 of Schedule 1 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or committed in the circumstances so specified.

14 Saving

Any act, matter or thing that, immediately before the repeal of the *Photo Card Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

(Clause 11)

Column 1	Column 2
Provision	Penalty
Offences under the Act	
Section 11 (3)	\$95
Section 12	\$95
Section 20 (1) (a)	\$732
Section 20 (1) (b)	\$732
Section 21 (a)	\$732
Section 21 (b)	\$732
Section 22 (1)	\$732
Section 22 (2)	\$732
Section 23 (a)	\$732
Section 23 (b)	\$732
Section 25 (2)	\$732
Section 28 (2)	\$732
Offences under this Regulation	
Clause 9 (1)	\$95
