



New South Wales

Licensing and Registration (Uniform Procedures) Amendment (Photo ID) Act 2004 No 105

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Licensing and Registration (Uniform Procedures) Act 2002 No 28	2
4 Amendment of Road Transport (Driver Licensing) Act 1998 No 99	2
Schedule 1 Amendment of Licensing and Registration (Uniform Procedures) Act 2002	3
Schedule 2 Amendment of Road Transport (Driver Licensing) Act 1998	10



New South Wales

Licensing and Registration (Uniform Procedures) Amendment (Photo ID) Act 2004 No 105

Act No 105, 2004

An Act to amend the *Licensing and Registration (Uniform Procedures) Act 2002* to make further provision for the provision of photographs by applicants; and for other purposes. [Assented to 15 December 2004]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Licensing and Registration (Uniform Procedures) Amendment (Photo ID) Act 2004*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Licensing and Registration (Uniform Procedures) Act 2002 No 28

The *Licensing and Registration (Uniform Procedures) Act 2002* is amended as set out in Schedule 1.

4 Amendment of Road Transport (Driver Licensing) Act 1998 No 99

The *Road Transport (Driver Licensing) Act 1998* is amended as set out in Schedule 2.

Schedule 1 Amendment of Licensing and Registration (Uniform Procedures) Act 2002

(Section 3)

[1] Section 2A

Insert after section 2:

2A Notes

Notes included in this Act do not form part of this Act.

[2] Section 14 Provision of further information and supporting evidence

Insert after section 14 (1):

Note. Part 4A makes special provision for photographic identification for some licences.

[3] Section 43 Provision of further information and supporting evidence

Insert after section 43 (1):

Note. Part 4A makes special provision for photographic identification for some registration.

[4] Section 70 Provision of further information and supporting evidence

Insert after section 70 (1):

Note. Part 4A makes special provision for photographic identification for some registration.

[5] Part 4A

Insert after Part 4:

Part 4A Special provisions for ID photographs

Division 1 Application and interpretation

80A Application of Part

- (1) This Part applies to a licence or certificate of registration under such of the legislative provisions referred to in Schedules 1, 2 and 3 as are referred to in Schedule 3A.
- (2) A statutory rule that establishes, amends or repeals a licensing or registration scheme may amend Schedule 3A so as to include, amend or omit any matter arising from the establishment, amendment or repeal of the scheme.

80B Interpretation

- (1) In this Part:
 - applicant* means an applicant under Part 2, 3 or 4 in respect of a licence or certificate of registration to which this Part applies.
 - Director-General* means the Director-General of the Department of Commerce.
 - photograph* includes a digitised, electronic or computer generated image, and electronic data and other information used to create or generate a photograph.
 - RTA* means the Roads and Traffic Authority.
- (2) Expressions used in this Part have the same meaning as they have in Parts 2, 3 and 4 in respect of the particular licence or certificate of registration to which the use of the expression relates.

Division 2 Photo-access arrangements

80C Arrangements for the provision of photographs of applicants

- (1) The Director-General may enter into the following arrangements (*photo-access arrangements*) to facilitate the provision to licensing and registration authorities of photographs of applicants in connection with applications to which this Part applies:
 - (a) arrangements with the RTA and a licensing or registration authority (a *participating authority*) for the RTA to provide the participating authority on behalf of an applicant with a photograph of the applicant as a means of compliance with a lawful requirement that a photograph of the applicant be provided in connection with the application concerned,
 - (b) arrangements with a person or body (a *service provider*) for the provision by the service provider of information services for or on behalf of the RTA or a participating authority in connection with the arrangements referred to in paragraph (a), being services relating to the collection, processing, disclosure or use of, or provision of access to, information (including photographs).
- (2) A participating authority is entitled to require that a photograph that an applicant is required to provide to the authority in connection with an application to the authority must be provided under and in accordance with the photo-access arrangements.

- (3) The photo-access arrangements must afford an applicant the choice of having a photograph of the applicant provided by means of the provision of an existing photograph already held by the RTA or by means of the provision of a new photograph to be taken by the RTA.

80D What the photo-access arrangements can provide for

The photo-access arrangements can include provision for or with respect to the following:

- (a) authorising the RTA to take, store, use and provide photographs for the purposes of the arrangements, including photographs already held by the RTA in the exercise of any other functions of the RTA (such as photographs to which Part 5 of the *Road Transport (Driver Licensing) Act 1998* applies),
- (b) authorising the collection of information by the RTA for use in connection with the arrangements, including information to assist the RTA to identify persons whose photographs are to be taken or provided by the RTA,
- (c) authorising the disclosure by the RTA to a participating authority of information (including photographs) held by the RTA, for the purpose of assisting the authority to verify the identity of an applicant,
- (d) authorising the disclosure by a participating authority to the RTA of information (including photographs) held by the participating authority, for the purpose of assisting the RTA to verify the identity of a person whose photograph is to be taken or provided by the RTA under the arrangements,
- (e) providing for the exercise by a service provider for or on behalf of the RTA or a participating authority of any functions of the RTA or participating authority under the arrangements,
- (f) the fees to be paid to the RTA (by a participating authority or applicant) in connection with any service provided by the RTA under the arrangements.

80E Functions for the purposes of photo-access arrangements

- (1) The RTA, participating authorities and service providers are authorised to enter into the photo-access arrangements under this Part.

- (2) The RTA, participating authorities and service providers have and may exercise such functions as are conferred or imposed on them by or under the photo-access arrangements.
- (3) The RTA is authorised to charge and recover any fees that the photo-access arrangements provide are payable to the RTA. This section does not limit any power of the RTA under the *Transport Administration Act 1988* or otherwise to charge or recover a fee.

80F Participating authorities required to accept photos provided under photo-access arrangements

- (1) A photograph of an applicant provided under the photo-access arrangements is to be accepted by a participating authority as having been provided by the applicant, unless the authority is permitted under the arrangements to reject the photograph.
- (2) The photo-access arrangements can permit a participating authority to reject a photograph provided under the arrangements but only in the following circumstances:
 - (a) the photograph is not a sufficiently recent photograph, having regard to the need for the photograph to be adequate for use as a means of identification until the end of the period of currency of the licence or certificate of registration concerned,
 - (b) the image quality or other technical qualities of the photograph are not adequate, having regard to any special aspects of the purpose for which the photograph is to be used,
 - (c) the Director-General is satisfied some other good reason exists that justifies rejection of the photograph.

Division 3 Security and protection of photographs

80G Photographs to which Division applies

This Division applies to the following photographs:

- (a) photographs held by the RTA that have been taken pursuant to the photo-access arrangements (not including photographs kept by the RTA under Part 5 of the *Road Transport (Driver Licensing) Act 1998*),
- (b) photographs held by a participating authority or a service provider that have been provided by the RTA pursuant to the photo-access arrangements, whether those photographs were taken by the RTA pursuant to the

arrangements or were photographs kept by the RTA under Part 5 of the *Road Transport (Driver Licensing) Act 1998*.

80H Keeping and use of photographs

- (1) A photograph to which this Division applies may be kept and used by the RTA, a participating authority or a service provider for one or more of the following purposes only:
 - (a) to assist the RTA to verify the identity of a person whose photograph is to be taken or provided by the RTA under the arrangements or to assist a participating authority to verify the identity of an applicant,
 - (b) to facilitate reproducing the likeness of a person on a licence or certificate of registration in connection with which the photograph was taken or provided,
 - (c) the exercise of any function conferred or imposed by or under the photo-access arrangements,
 - (d) any purpose that is reasonably necessary for the proper exercise of any of the investigative functions of the participating authority or its conduct of any lawful investigation,
 - (e) for the conduct of relevant criminal proceedings, and any investigation relating to or leading to any such proceedings.
- (2) A photograph may be used for a purpose set out in this section at the time that the photograph is provided or taken or at any later time.
- (3) In this section:

relevant criminal proceedings means:

 - (a) criminal proceedings under the legislation under which a licence or certificate of registration to which this Part applies is issued, or
 - (b) proceedings under Division 3 of Part 5 (Forgery and false instrument offences) of the *Crimes Act 1900* in relation to a licence or certificate of registration to which this Part applies.

80I Release of photographs

- (1) The RTA, a participating authority or a service provider must ensure that a photograph to which this Division applies is not released except:

- (a) in the exercise of any function conferred or imposed by or under the photo-access arrangements, or
 - (b) for any purpose that is reasonably necessary for the proper exercise of any of the agency's investigative functions or its conduct of any lawful investigation, or
 - (c) for the purposes of the conduct of relevant criminal proceedings (as defined in section 80H), and any investigation relating to or leading to any such proceedings, or
 - (d) as provided under any other law, or
 - (e) to the person whose likeness is shown in the photograph.
- (2) Any release authorised by subsection (1) (b) or (c) must be in accordance with any protocol approved by the Privacy Commissioner.

80J Access to and alteration of photographs

Sections 14 (Access to personal information held by agencies) and 15 (Alteration of personal information) of the *Privacy and Personal Information Protection Act 1998* do not apply to a participating authority or service provider in respect of photographs to which this Division applies (without affecting the application of those sections to the RTA).

Note. The RTA is the appropriate agency to exercise functions under those sections with respect to the photographs to which this Division applies.

80K Application of privacy principles to private sector service providers

In the case of a service provider that is not a public sector agency under the *Privacy and Personal Information Protection Act 1998*, the Director-General is not to enter into photo-access arrangements with the service provider unless satisfied that the arrangements make appropriate provision for compliance by the service provider, in connection with its functions under the arrangements, with:

- (a) sections 80H and 80I, and
- (b) such of the information protection principles under the *Privacy and Personal Information Protection Act 1998* as would be applicable to the service provider if the service provider were a public sector agency under that Act.

[6] Schedule 3A

Insert after Schedule 3:

**Schedule 3A Licences and registration to which
Part 4A of Act applies**

(Section 80A)

Explosives Act 2003

section 11, explosives licence

Home Building Act 1989

section 19 (1), contractor licence

section 24 (1) (a), tradesperson certificate

section 24 (1) (b), supervisor certificate

section 30 (1), owner-builder permit

section 32A (1), building consultancy licence

Occupational Health and Safety Regulation 2001

clause 284A (1), accreditation of assessors

clause 289A (1), certificate of competency to do scheduled work

clause 308A (1) (a), certificate of competency to do formwork

clause 308A (1) (b), certificate of competency to use explosive-powered tools

Property, Stock and Business Agents Act 2002

section 17 (1) (a), real estate agent's licence

section 17 (1) (b), stock and station agent's licence

section 17 (1) (c), business agent's licence

section 17 (1) (d), strata managing agent's licence

section 17 (1) (e), on-site residential property manager's licence

section 17 (1) (f), corporation licence

section 17 (1) (g), certificate of registration as a real estate salesperson

section 17 (1) (h), certificate of registration as a stock and station salesperson

section 17 (1) (i), certificate of registration as a business salesperson

section 17 (1) (j), certificate of registration as a registered manager

Schedule 2 Amendment of Road Transport (Driver Licensing) Act 1998

(Section 4)

[1] Section 40 Purposes for which photographs may be kept and used

Insert after section 40 (1) (c):

- (c1) in connection with the exercise of functions conferred or imposed on the Authority by or under the photo-access arrangements under Part 4A of the *Licensing and Registration (Uniform Procedures) Act 2002*,

[2] Section 41 Release of photographs prohibited

Insert after section 41 (1) (d):

- (d1) in the exercise of any function conferred or imposed on the Authority by or under the photo-access arrangements under Part 4A of the *Licensing and Registration (Uniform Procedures) Act 2002*, or

[Second reading speech made in—
Legislative Assembly on 19 November 2004
Legislative Council on 9 December 2004]

BY AUTHORITY