



New South Wales

# Road Transport (General) Amendment (Appeals) Regulation 2001

under the

Road Transport (General) Act 1999

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (General) Act 1999*.

CARL SCULLY, M.P.,

Minister for Roads

## Explanatory note

The object of this Regulation is to amend the *Road Transport (General) Regulation 1999* to enable persons aggrieved by any of the following decisions of the Roads and Traffic Authority (*the Authority*) to appeal against the decision to a Local Court (but only after an internal review of the decision by the Authority is finalised):

- (a) a decision of the Authority under the *Road Transport (Vehicle Registration) Regulation 1998* to vary, suspend or cancel a registered operator's accreditation under the Maintenance Management Accreditation Scheme,
- (b) a decision of the Authority under the *Road Transport (Mass, Loading and Access) Regulation 1996* to vary, suspend or cancel a registered operator's accreditation under the Mass Management Accreditation Scheme.

The Local Court hearing the appeal may confirm (with or without variation) or disallow the decision appealed against, or make another order that in the circumstances seems just to the Court.

This Regulation is made under the *Road Transport (General) Act 1999*, including section 71 (the general regulation making power) and clause 24 of Schedule 2 to that Act.

## **2001 No 258**

Clause 1                      Road Transport (General) Amendment (Appeals) Regulation 2001

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# **Road Transport (General) Amendment (Appeals) Regulation 2001**

### **1 Name of Regulation**

This Regulation is the *Road Transport (General) Amendment (Appeals) Regulation 2001*.

### **2 Amendment of Road Transport (General) Regulation 1999**

The *Road Transport (General) Regulation 1999* is amended as set out in Schedule 1.

### **3 Notes**

The explanatory note does not form part of this Regulation.

## Schedule 1 Amendments

(Clause 2)

### [1] Clause 26

Insert after clause 25:

#### **26 Road transport legislation**

Part 10 of the *Road Transport (Mass, Loading and Access) Regulation 1996* is prescribed for the purposes of section 5 (1) (f) of the Act.

### [2] Schedule 2 Savings and transitional provisions

Insert after clause 10 of Schedule 2:

#### **10A Appeals concerning Maintenance Management Accreditation Scheme or Mass Management Accreditation Scheme**

- (1) Any person aggrieved by any of the following decisions of the Authority may, after an internal review of the decision is finalised, appeal against the decision to a Local Court constituted by a Magistrate sitting alone:
  - (a) a decision of the Authority under the *Road Transport (Vehicle Registration) Regulation 1998* to vary, suspend or cancel a registered operator's or vehicle's accreditation under the Maintenance Management Accreditation Scheme,
  - (b) a decision of the Authority under the *Road Transport (Mass, Loading and Access) Regulation 1996* to vary, suspend or cancel a registered operator's or vehicle's accreditation under the Mass Management Accreditation Scheme.
- (2) Notice of such an appeal specifying the grounds of the appeal must be lodged with the clerk of the Local Court to which the appeal is being made not later than 21 days after the internal review of the decision being appealed against was finalised.

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#### Schedule 1

#### Amendments

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- (3) The clerk of the Local Court must give notice of the time and place of the hearing of the appeal to the Authority and to the appellant, and in the notice to the Authority, is to notify the Authority as to the grounds of the appeal.
- (4) The time of the hearing of the appeal must be not earlier than 21 days after the date on which the notice under subclause (3) is given to the Authority.
- (5) The hearing of the appeal may proceed despite any omission or error in a notice under subclause (3) or the failure to give any such notice if the Court is satisfied that the appellant and the Authority had knowledge of the time and place of the hearing and were not prejudiced by any such omission or error or by the failure to give any such notice.
- (6) A Local Court is to hear and determine the appeal and may confirm (with or without variation) or disallow the decision appealed against, or make such other order in the circumstances as to the Court seems just.
- (7) For the purposes of varying a decision of the Authority under subclause (6), the Court may exercise only such powers as the Authority could have exercised under the *Road Transport (Mass, Loading and Access) Regulation 1996* or the *Road Transport (Mass, Loading and Access) Regulation 1996* when making that decision.
- (8) The decision of a Local Court in respect of an appeal made under this clause is final and is binding on the appellant and on the Authority.
- (9) In this clause, **internal review** means:
  - (a) in relation to a decision of the Authority under the *Road Transport (Vehicle Registration) Regulation 1998*—an internal review under clause 78E of that regulation, and
  - (b) in relation to a decision of the Authority under the *Road Transport (Mass, Loading and Access) Regulation 1996*—an internal review under clause 74 of that regulation.

BY AUTHORITY