



New South Wales

Road Transport (Mass, Loading and Access) Amendment (Mass Management Accreditation Scheme) Regulation 2001

under the

Roads Act 1993

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Roads Act 1993*.

CARL SCULLY, M.P.,

Minister for Roads

Explanatory note

The object of this Regulation is to amend the *Road Transport (Mass, Loading and Access) Regulation 1996 (the Principal Regulation)* to provide for the establishment and recognition of mass management accreditation schemes for heavy vehicles.

The Roads and Traffic Authority (*the Authority*) will be able to exempt, by way of permits or notices granted under Part 3 of the Principal Regulation, a registered operator in relation to a heavy vehicle from specific mass, loading and access requirements imposed by that Regulation.

The amendments made by this Regulation provide that the Authority may approve and operate Mass Management Accreditation Schemes in New South Wales.

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Explanatory note

This Regulation inserts a new part (Part 10 Mass Management Accreditation Scheme) into the Principal Regulation to govern the operation of such schemes by the Authority. The new part provides for:

- (a) applications for, and issuing of, accreditations,
- (b) fees,
- (c) variation, suspension and cancellation of accreditation,
- (d) internal reviews of such decisions,
- (e) other minor matters of a machinery nature.

This Regulation is made under the *Roads Act 1993*, including section 264 (the general regulation-making power) and 264A (national road transport regulations).

Road Transport (Mass, Loading and Access) Amendment (Mass Management Accreditation Scheme) Regulation 2001

1 Name of Regulation

This Regulation is the *Road Transport (Mass, Loading and Access) Amendment (Mass Management Accreditation Scheme) Regulation 2001*.

2 Amendment of Road Transport (Mass, Loading and Access) Regulation 1996

The *Road Transport (Mass, Loading and Access) Regulation 1996* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

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Schedule 1 Amendments

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(Clause 2)

[1] Part 10

Insert after clause 69:

Part 10 Mass Management Accreditation Scheme

70 Application for accreditation

- (1) A registered operator of a heavy vehicle may apply to the Authority to be accredited under a Mass Management Accreditation Scheme.
- (2) An application for accreditation must be in a form approved by the Authority and be accompanied by an application fee of:
 - (a) \$66, and
 - (b) \$22 for each nominated vehicle that will be the subject of the accreditation.
- (3) The Authority may, for such reason as the Authority considers sufficient, exempt a person from the application fee referred to in subclause (2), or waive or wholly or partly refund a fee that would be otherwise payable or has been paid in accordance with this clause.

71 Accreditation under Scheme

- (1) The Authority may accredit a registered operator under a Mass Management Accreditation Scheme in relation to one or more nominated heavy vehicles, if the Authority is satisfied that:
 - (a) the operator is of suitable character and is competent to carry out the operator's responsibilities under the Scheme, and
 - (b) the nominated vehicles comply with the requirements of the Scheme.

- (2) An accreditation may be issued conditionally or unconditionally, as the Authority considers appropriate, in relation to the Scheme.
- (3) The Authority may refuse to accredit a registered operator if the Authority is not satisfied that the registered operator, or the relevant nominated vehicle or vehicles, meet the requirements of the Scheme.
- (4) An accreditation has a duration of either 2 or 3 years, as may be specified in the instrument of accreditation.

72 Accreditation label

If the Authority accredits a registered operator under a Mass Management Accreditation Scheme, every nominated vehicle under that accreditation must be affixed with an accreditation label in the form and manner specified by the Authority.

73 Variation, suspension and cancellation of accreditation

- (1) Subject to this clause, the Authority may vary, suspend or cancel a registered operator's accreditation under a Mass Management Accreditation Scheme, if:
 - (a) the Authority is, for any reason, of the opinion that the operator is not a fit and proper person to continue to be accredited, or
 - (b) the registered operator has failed to comply with a condition of the accreditation, or
 - (c) a nominated vehicle of the registered operator does not comply with the requirements of the Scheme, or
 - (d) a review of the operator's activities reveals non-compliance with requirements of the Scheme.
- (2) Before varying, suspending or cancelling a registered operator's accreditation under a Mass Management Accreditation Scheme on the ground referred to in subclause (1) (a), the Authority must give the operator notice in writing that advises the registered operator of:
 - (a) the proposed decision and the reasons for it, and
 - (b) the date that the proposed decision will take effect, and

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- (c) the registered operator's right to a review of the decision by one or more officers of the Authority appointed for the purpose (*an internal review*), and
 - (d) the registered operator's right, after an internal review is finalised, to appeal against the decision to a Local Court.
- (3) Before varying, suspending or cancelling a registered operator's accreditation under a Mass Management Accreditation Scheme on a ground referred to in subclause (1) (b), (c) or (d), the Authority must give the operator notice in writing that advises the registered operator of:
 - (a) the proposed decision and the reasons for it, and
 - (b) the action to be taken by the operator to avoid the variation, suspension or cancellation and the date by which such action must be taken, and
 - (c) the matters referred to in subclause (2) (c) and (d).
- (4) The notice referred to in subclause (3) must also advise the registered operator that if the action referred to in subclause (3) (c) is not taken within 28 days after the date specified in the notice for that purpose, the variation, suspension or cancellation will then take effect.
- (5) A variation, suspension or cancellation takes effect:
 - (a) in the case of a variation, suspension or cancellation on the ground referred to in subclause (1) (a)—on the date specified in the notice referred to in subclause (2), and
 - (b) in the case of a variation, suspension or cancellation on a ground referred to in subclause (1) (b), (c) or (d)—if the action required to be taken to avoid the variation, suspension or cancellation has not been taken within the period specified in the notice referred to in subclause (3), at the end of that period.
- (6) However:
 - (a) an application for an internal review of a decision to vary, suspend or cancel an accreditation that is duly lodged in accordance with clause 74 operates as a stay of the decision pending the determination of the review, and

- (b) a notice of appeal against a decision to cancel an accreditation that is duly lodged in accordance with clause 10A of Schedule 2 to the *Road Transport (General) Regulation 1999* operates as a stay of the decision pending the determination of the appeal.

74 Internal review of variation, suspension or cancellation of accreditation

- (1) Any registered operator aggrieved by a decision of the Authority to vary, suspend or cancel the registered operator's accreditation under the Mass Management Accreditation Scheme may apply for an internal review of the decision under this clause (*an internal review*).
- (2) An application for an internal review is:
 - (a) to be in writing in the form approved by the Authority, and
 - (b) to specify an address in Australia to which a notice under subclause (7) may be sent, and
 - (c) to be lodged with the Authority within 28 days after the registered operator was given the notice under clause 78D of the decision to vary, suspend or cancel the operator's accreditation, and
 - (d) to comply with such other requirements as may be set out in the approved form in respect of the making of applications for internal reviews.
- (3) An application for an internal review is to be dealt with by an officer or a panel of two or more officers of the Authority (other than the officer who made the original decision) who is directed to do so by the Authority (the *internal review officer or panel*).
- (4) In reviewing a decision, the internal review officer or panel is to consider any relevant material submitted by the registered operator.

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- (5) Following the internal review of the decision, the internal review officer or panel may:
 - (a) confirm the decision, or
 - (b) vary the decision, or
 - (c) set aside the decision and make an alternative decision.
- (6) In exercising a function under this clause, an internal review officer or panel is taken to have the functions of the officer who made the decision being reviewed.
- (7) As soon as practicable (and in any event within 28 days) after the completion of an internal review of a decision, the Authority must notify the registered operator in writing of:
 - (a) the outcome of the internal review, and
 - (b) the reasons for the decision in the internal review, and
 - (c) the right of the registered operator to appeal against the decision to the Local Court.
- (8) If the Authority does not notify the registered operator of the outcome of the review within 28 days after the application for the internal review has been lodged (or such other period as the Authority and registered operator have agreed on), the decision being reviewed is taken to be confirmed.
- (9) An internal review is taken to be finalised if:
 - (a) the registered operator is notified of the outcome of the review under subclause (7), or
 - (b) the decision being reviewed is taken to be confirmed under subclause (8).
- (10) A person is not entitled to a review under this clause of any decision previously reviewed under this clause.

[2] Dictionary

Insert in alphabetical order:

Mass Management Accreditation Scheme means a scheme under the Mass Management Module of the National Road Transport Commission's Heavy Vehicle Accreditation Scheme that is approved by the Authority.

nominated vehicle, in relation to a Mass Management Accreditation Scheme, means a vehicle identified in a registered operator's accreditation under such a scheme as a nominated vehicle for the purposes of that accreditation.