



New South Wales

Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Mobility Parking Scheme) Regulation 2003

under the

Road Transport (Safety and Traffic Management) Act 1999

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

CARL SCULLY, M.P.,

Minister for Roads

Explanatory note

The object of this Regulation is to amend the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* to make further provision with respect to the issue and use of mobility parking scheme authorities by or for persons with disabilities.

This Regulation is made under the *Road Transport (Safety and Traffic Management) Act 1999*, including section 71 (the general regulation-making power) and clauses 1 (k), 2 and 9 of Schedule 1.

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Clause 1 Road Transport (Safety and Traffic Management) (Road Rules)
Amendment (Mobility Parking Scheme) Regulation 2003

Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Mobility Parking Scheme) Regulation 2003

under the

Road Transport (Safety and Traffic Management) Act 1999

1 Name of Regulation

This Regulation is the *Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Mobility Parking Scheme) Regulation 2003*.

2 Commencement

This Regulation commences on 29 September 2003.

3 Amendment of Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999

The *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] **Clause 80 Unauthorised use and revocation of mobility parking scheme authorities**

Omit the clause.

[2] **Part 6 Parking permits and mobility parking scheme authorities**

Omit Division 2. Insert instead:

Division 2 Mobility parking scheme authorities

Subdivision 1 Interpretation

125 Definitions

In this Division:

holder of a scheme authority, or an expired or revoked scheme authority, means the person or organisation to whom or to which the scheme authority has been or was issued.

interstate or overseas authority means a document issued by an authority of another State or Territory, or of a foreign country, to indicate:

- (a) that a specified person is a disabled person who has the benefit of parking concessions in that State, Territory or country, or
- (b) that a specified vehicle is used for the purpose of conveying disabled persons and has the benefit of parking concessions in that State, Territory or country.

mobility parking scheme means the scheme for the issue of scheme authorities set out in this Division.

organisation means a corporation or an unincorporated association of persons.

scheme authority means a mobility parking scheme authority issued under this Division.

Subdivision 2 Issue of scheme authorities

126 Authority may issue mobility parking scheme authorities

The Authority may, on application under this Division, issue a mobility parking scheme authority:

- (a) for use by a disabled person, or
- (b) for use by an organisation in connection with the conveyance of disabled persons.

126A Form of scheme authority

- (1) A scheme authority must show:
 - (a) a unique identifying number that has been allocated by the Authority, and
 - (b) the full name of the holder of the scheme authority, and
 - (c) the category of scheme authority issued, and
 - (d) the expiry date of the scheme authority.
- (2) A scheme authority may also show any of the following:
 - (a) a photograph of the individual to whom it has been issued,
 - (b) the date of birth of the individual to whom it has been issued,
 - (c) the residential, business or other address for service of the holder of the scheme authority,
 - (d) the signature (or a reproduction of the signature) of an individual to whom it has been issued,
 - (e) any other information that the Authority considers appropriate.
- (3) A scheme authority may be categorised and colour coded as follows:
 - individual authority for disabled person—blue
 - temporary authority for disabled person with temporary disability—red
 - organisational authority for the conveyance of disabled persons—green

126B Conditions of scheme authorities

- (1) A scheme authority is subject to the following conditions:
- (a) A person in charge of a vehicle must not display a scheme authority issued to an individual unless the person:
 - (i) is the individual to whom it has been issued, or
 - (ii) has express or implied permission to use it from the individual, or
 - (iii) is otherwise using it for the individual's benefit.
 - (b) A person in charge of a vehicle must not display a scheme authority issued to an organisation unless the person has express or implied permission from the organisation (or the governing body of the organisation) to use the scheme authority.
 - (c) A person in charge of a vehicle displaying a scheme authority must ensure that it is displayed unobscured at the bottom or top-left hand corner of the vehicle's windscreen, or on any fixed, pivoted or hinged window on the left hand (passenger) side of the vehicle. If this is not practicable, it should be placed in an area where the whole of it may be viewed from outside the vehicle. The side marked "THIS SIDE UP" must face out.
 - (d) If a scheme authority is issued to an individual, a person in charge of a vehicle transporting the individual must ensure that the scheme authority is displayed only when the vehicle is being used to transport the individual.
 - (e) If a scheme authority is issued to an organisation, a person in charge of a vehicle used to transport disabled persons for the organisation must ensure that the scheme authority is displayed only when the vehicle is being used to transport disabled persons.
 - (f) A person in charge of a vehicle must not use a scheme authority to visit, or run errands for, a disabled person when that person is not being transported in the vehicle.
 - (g) A person in charge of a vehicle must not display a scheme authority that has been defaced or otherwise altered or where one or more of the personal or organisational details on the scheme authority (for example, the authority number or expiry date) is illegible.

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- (2) A scheme authority is also subject to such other conditions as may be imposed on the holder of the scheme authority by the Authority.
- (3) A condition imposed by the Authority on a scheme authority under subclause (2) does not have effect until written notice of the condition is given to the holder of the scheme authority.

126C When scheme authority ceases to be in force

A scheme authority ceases to be in force on the expiry of the scheme authority unless it is sooner revoked by the Authority under this Division.

Subdivision 3 Applications for scheme authorities

126D Procedure to obtain scheme authority

- (1) The applicant for a scheme authority must be:
 - (a) in the case of an application for a scheme authority for an individual—the individual or a person that the Authority is satisfied acts on behalf of the individual, or
 - (b) in the case of an application for a scheme authority for an organisation—an individual authorised in writing by the organisation (or the governing body of the organisation) to apply for the scheme authority on its behalf.
- (2) An applicant for the issue of a scheme authority must give the Authority:
 - (a) a completed application form in the form approved by the Authority, and
 - (b) particulars necessary to identify the applicant and the applicant's residential or business address, including any evidence that the Authority may reasonably require to verify those particulars (for example, evidence of the person's address on the electoral roll), and
 - (c) where the applicant is making the application on behalf of an individual or organisation:
 - (i) such documents or other evidence of the applicant's authority to make the application as is specified by the application form or otherwise required by the Authority, and

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- (ii) particulars necessary to identify the individual or organisation on behalf of whom or which the application is made and the individual's or organisation's residential, business or other address for service, including any evidence that the Authority may reasonably require to verify those particulars (for example, evidence of the individual's address on the electoral roll), and
 - (d) any documents or other evidence (including medical certificates) specified by the application form, and
 - (e) the fee (if any) fixed under clause 126E for the category of scheme authority sought.

126E Fees for applications for scheme authorities

- (1) The Authority may, by order published in the Gazette, fix fees, or amend or revoke fees, for services provided by the Authority in connection with the issue of scheme authorities.
- (2) Without limiting subclause (1):
 - (a) different fees may be fixed for different categories of authorities, and
 - (b) different fees may be fixed for different categories of applicants.
- (3) In fixing any fee under subclause (1), the Authority must have regard to the following matters:
 - (a) the costs (or estimated costs) associated with the establishment and administration of the mobility parking scheme over such period as the Authority may determine (the *specified administration period*),
 - (b) the actual or estimated number of applicants for scheme authorities and participants in the mobility parking scheme during the specified administration period,
 - (c) any increases in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.
- (4) The Authority may in a particular case waive the requirement for a fee or reduce a fee.

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126F Surrender of current or expired scheme authority if new authority obtained

- (1) If an applicant for a scheme authority holds a current scheme authority or possesses an expired scheme authority, the applicant must surrender that authority to the Authority before the issue of a new scheme authority.
- (2) Despite subclause (1), the Authority may exempt a person from surrendering a current or expired scheme authority if the Authority is satisfied that it would be unreasonable, in the circumstances, to require that authority to be surrendered.

126G Authority may require the taking of photographs

- (1) The Authority may (but need not) require an applicant for a scheme authority to have his or her photograph taken.
- (2) However, the Authority must not require an applicant for a scheme authority to have his or her photograph taken if the Authority is satisfied:
 - (a) the applicant is under 16 years of age, or
 - (b) the applicant suffers from a significant facial disfigurement, or
 - (c) the applicant cannot attend a motor registry to be photographed because of the severity of the applicant's disabilities.
- (3) For the purposes of making a determination under subclause (2) (b) or (c), the Authority may require the applicant to provide supporting documentation from a medical practitioner.

126H Purposes for which photographs may be kept and used

- (1) A photograph of a person taken for the purposes of this Division may be kept and used by the Authority only for one or more of the following purposes:
 - (a) to reproduce the likeness of the person on a scheme authority,
 - (b) to assist in determining the identity of the person in connection with an application for a new scheme authority,

- (c) for the purpose of investigating the commission of, or conducting criminal proceedings for, an offence concerning parking or a scheme authority.
- (2) A photograph may be used for a purpose set out in this clause at the time that the photograph is provided or taken or at any later time.

126I Release of photographs prohibited

- (1) The Authority must ensure that a photograph taken for the purposes of this Division, and any photographic image or other matter contained in any database of such photographs, is not released except:
 - (a) to the Police Service, or
 - (b) to an authority of another State or Territory or a foreign country that has responsibility for issuing interstate or overseas authorities or for the enforcement of parking offences, or
 - (c) for the purpose of the conduct of any criminal proceedings for an offence concerning parking or a scheme authority, or
 - (d) to the Sheriff, for the purpose of any fine recovery proceedings, or
 - (e) as provided under any other law, or
 - (f) to the person whose likeness is shown in the photograph or on the database.
- (2) Any release authorised by subclause (1) (a)–(d) must be in accordance with any protocol approved by the Privacy Commissioner.

Subdivision 4 Use of scheme authorities

126J Relaxation of parking restrictions

- (1) The driver of a vehicle that is displaying a scheme authority, in the manner specified by the conditions of the scheme authority, and that is being used:
 - (a) for the conveyance of the disabled person to whom the scheme authority was issued, or

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- (b) for the conveyance of disabled persons by the organisation to which the scheme authority was issued, may park the vehicle otherwise than in accordance with a permissive parking sign.
- (2) The maximum period for which a vehicle may be parked otherwise than in accordance with a permissive parking sign pursuant to subclause (1) is:
 - (a) 30 minutes, if the maximum period allowed by the sign is less than 30 minutes, and
 - (b) 2 hours, if the maximum period allowed by the sign is 30 minutes, and
 - (c) an unlimited period of time, if the maximum period allowed by the sign is more than 30 minutes.
- (3) This clause applies to a disabled person to whom an interstate or overseas authority has been issued in the same way as it applies to a person to whom a scheme authority has been issued.

126K Use of scheme authorities in contravention of conditions

A person in charge of a vehicle must not display a scheme authority in or on the vehicle in contravention of any condition of the scheme authority.

Maximum penalty: 20 penalty units.

126L Reproducing, copying, defacing, altering or destroying scheme authorities

A person must not, without the permission of the Authority, reproduce, copy, deface, alter or destroy a scheme authority.

Maximum penalty: 20 penalty units.

126M Return of scheme authorities issued to individuals who have ceased to be disabled persons

An individual who holds a scheme authority and who ceases to be a disabled person during the currency of the authority must, as soon as is reasonably practicable after ceasing to be a disabled person, return the scheme authority to the Authority.

Maximum penalty: 20 penalty units.

126N Production of scheme authorities and other documents to authorised officers

- (1) An authorised officer may direct the person in charge of a vehicle that is displaying a scheme authority or an interstate or overseas authority (or a document or other thing that purports to be such an authority) to remove the authority, document or thing from the vehicle and give it to the officer if:
 - (a) the vehicle is stopped in a parking area for people with disabilities (within the meaning of rule 203 of the *Australian Road Rules*), or
 - (b) the vehicle is parked contrary to a permissive parking sign.
- (2) A person to whom a direction is given under subclause (1) must immediately comply with that direction.

Maximum penalty: 20 penalty units.

- (3) In this clause, **authorised officer** means:
 - (a) a police officer, or
 - (b) a person:
 - (i) who is employed by a local council, or
 - (ii) who is subject to the control and direction of a local council,and who is an authorised person (within the meaning of the *Local Government Act 1993*) for the purposes of section 679 of that Act.

Subdivision 5 Expiry and revocation of scheme authorities

126O Expiry of scheme authorities

- (1) A scheme authority expires at the end of the day that is specified on the scheme authority as the expiry date for the authority.

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- (2) The Authority may, by written notice given to the holder of an expired scheme authority, require the holder of the expired scheme authority to return it to the Authority.

Note. Section 44 of the *Road Transport (General) Act 1999* makes provision for how notices to individuals and corporations under this Regulation may be given or served by the Authority. Clause 12A of the *Road Transport (General) Regulation 1999* makes provision for how notices to unincorporated associations for the purposes of this Division may be given or served by the Authority.

- (3) If a notice referred to in subclause (2) is given in relation to an expired scheme authority:
- (a) where the holder of the expired scheme authority is an individual or an organisation that is incorporated—the individual or organisation must immediately return it to the Authority as soon as is reasonably practicable after receiving the notice, or
 - (b) where the holder of the expired scheme authority is an organisation that is unincorporated—the person in possession of the expired authority must immediately return it to the Authority as soon as is reasonably practicable after becoming aware that the notice has been given.

Maximum penalty (subclause (3)): 20 penalty units.

126P Revocation of scheme authorities

- (1) The Authority may at any time revoke a scheme authority:
- (a) for a failure to comply with the conditions of the scheme authority, or
 - (b) for any other misuse of the scheme authority, or
 - (c) for any other reason.
- (2) If the Authority decides to revoke a scheme authority, the Authority must give the holder of the scheme authority written notice of:
- (a) the reasons for the proposed revocation, and
 - (b) the action (if any) that must be taken by the holder of the scheme authority in order to avoid or reverse the revocation, and

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- (c) the date after service of the notice on which the revocation takes effect.

Note. Section 44 of the *Road Transport (General) Act 1999* makes provision for how notices to individuals and corporations under this Regulation may be given or served by the Authority. Clause 12A of the *Road Transport (General) Regulation 1999* makes provision for how notices to unincorporated associations for the purposes of this Division may be given or served by the Authority.

- (3) A notice under subclause (2) must also state that the holder of the scheme authority will no longer be authorised to use the scheme authority on its revocation.
- (4) A scheme authority is revoked in accordance with the terms of a notice given under this clause unless the Authority, by further written notice to the holder of the scheme authority, withdraws the notice.
- (5) The Authority may decide to revoke a scheme authority without the holder of the scheme authority having been provided with an opportunity to show cause why the scheme authority should not be revoked.
- (6) If a scheme authority is revoked:
- (a) where the holder of the revoked scheme authority is an individual or an organisation that is incorporated—the individual or organisation must return it to the Authority as soon as is reasonably practicable after the revocation, or
- (b) where the holder of the revoked scheme authority is an organisation that is unincorporated—the person in possession of the scheme authority must return it to the Authority as soon as is reasonably practicable after becoming aware of the revocation.

Maximum penalty (subclause (6)): 20 penalty units.

Subdivision 6 General

126Q Transitional provisions regarding existing authorities

- (1) In this clause:

amending Regulation means the *Road Transport (Safety and Traffic Management) (Road Rules) Amendment (Mobility Parking Scheme) Regulation 2003*.

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existing authority means a mobility parking scheme authority issued under clause 125 of this Regulation before the commencement of the amending Regulation and that was in force immediately before that commencement.

- (2) Any existing authority continues in force as a scheme authority under this Division after the commencement of the amending Regulation.
- (3) The provisions of this Division (as inserted by the amending Regulation) extend to an existing authority as if the authority had been issued under this Division, subject to the following:
 - (a) the authority expires on the date specified on the authority for its expiry, unless it is sooner revoked under this Division,
 - (b) the provisions of clause 126A (Form of scheme authority) do not apply to the authority,
 - (c) any condition that applied to the authority continues to apply to the authority except to the extent that the condition is inconsistent with the conditions referred to in clause 126B (1).
- (4) Any notice revoking an existing authority issued to the holder of the existing authority under clause 80 (2) before its repeal by the amending Regulation that was to have effect on or after the date of the repeal is taken to be a notice duly issued under clause 126P and has effect in accordance with its terms.

[3] Dictionary

Omit the definition of *mobility parking scheme authority* from Part 1.

Insert instead:

mobility parking scheme authority means an authority issued under Division 2 of Part 6.

BY AUTHORITY
