



New South Wales

Protection of the Environment Operations (General) Amendment (Vehicle Testing and Inspection) Regulation 2007

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

BOB DEBUS, M.P.,
Minister for the Environment

Explanatory note

Section 207 of the *Protection of the Environment Operations Act 1997* provides, among other things, that an authorised officer may require an article (which includes a motor vehicle) to be tested or inspected at a place approved by the Environment Protection Authority (*the EPA*) by a person approved by the EPA for the purpose of determining whether the vehicle complies with the requirements of that Act or the regulations made under that Act.

The object of this Regulation is to amend the *Protection of the Environment Operations (General) Regulation 1998* to prescribe the procedure for issuing approvals in relation to such vehicle testing or inspection. The testing or inspection can only be carried out by approved mechanics at approved inspection stations. Approved mechanics must complete a vehicle inspection report in relation to the vehicle testing or inspection.

This Regulation also amends:

- (a) the *Protection of the Environment Operations (Noise Control) Regulation 2000* to extend the defences available to certain motor vehicle noise-related offences under that Regulation in cases where the relevant motor vehicle is being taken directly to an approved inspection station for testing or inspection by an approved mechanic, and
- (b) the *Protection of the Environment Operations (Penalty Notices) Regulation 2004* to enable certain offences to be dealt with by the issue of penalty notices, including offences in relation to the use of premises not approved for the testing or inspection of vehicles, holding out as an approved mechanic and the issuing of vehicle inspection reports.

2007 No 123

Protection of the Environment Operations (General) Amendment (Vehicle Testing and Inspection) Regulation 2007

Explanatory note

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including section 207, Division 3 of Part 8.2, section 323 (the general regulation-making power) and clauses 3 and 4 of Schedule 2.

Protection of the Environment Operations (General) Amendment (Vehicle Testing and Inspection) Regulation 2007

under the

Protection of the Environment Operations Act 1997

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (General) Amendment (Vehicle Testing and Inspection) Regulation 2007*.

2 Amendment of Protection of the Environment Operations (General) Regulation 1998

The *Protection of the Environment Operations (General) Regulation 1998* is amended as set out in Schedule 1.

3 Consequential amendment of other regulations

The regulations specified in Schedule 2 are amended as set out in that Schedule.

2007 No 123

Protection of the Environment Operations (General) Amendment (Vehicle Testing and Inspection) Regulation 2007

Schedule 1 Amendment of Protection of the Environment Operations (General) Regulation 1998

Schedule 1 Amendment of Protection of the Environment Operations (General) Regulation 1998

(Clause 2)

Part 4.8

Insert after Part 4.7:

Part 4.8 Vehicle testing and inspection

Division 1 Preliminary

70 Definitions

In this Part:

approved inspection station means premises approved under clause 73.

approved mechanic means an individual approved under clause 72.

proprietor, in relation to premises, means a person who:

- (a) carries on or proposes to carry on a business at the premises, or
- (b) is the occupier of the premises.

vehicle inspection report means a vehicle inspection report referred to in clause 75.

71 Application of Part

This Part applies in relation to the testing or inspection of motor vehicles required to be carried out in accordance with a notice given for the purposes of section 207 (2) (c) of the Act.

Note. Section 207 of the Act provides that an authorised officer may issue a notice requiring articles (which include motor vehicles) to be tested or inspected for the purpose of determining whether the article complies with the requirements of the Act or regulations made under the Act. Under section 207 (2) (c) of the Act, such a notice may require a motor vehicle to be tested or inspected at a place approved by the EPA by a person approved by the EPA.

Division 2 Approved mechanics and approved inspection stations**72 Approved mechanics**

- (1) An individual may apply to the EPA for an approval to carry out tests or inspections to which this Part applies.
- (2) An application under this clause must:
 - (a) be made in the manner and form approved by the EPA, and
 - (b) be supported by any information required by the EPA.
- (3) The EPA may, if it considers it necessary in order to determine the suitability of the applicant for an approval under this clause, require the applicant to furnish to the EPA, within a specified time, any further particulars that the EPA considers necessary.
- (4) The EPA is to determine an application under this clause by granting or refusing to grant the application.
- (5) The EPA may refuse to grant the application if, in its opinion, the individual is not a fit and proper person to carry out tests or inspections to which this Part applies.
- (6) The EPA must give notice in writing of the determination of the application under this clause to the applicant, including, if the application is granted, notice of the date from which the approval takes effect and any conditions to which the approval is subject.
- (7) An approval under this clause:
 - (a) applies to the testing or inspection of motor vehicles generally or to the class or classes of vehicles specified in the approval, and
 - (b) remains in force until it is surrendered, suspended or revoked, and
 - (c) is to be given in the manner and in the form approved by the EPA, and
 - (d) may be given unconditionally or subject to such conditions as the EPA considers appropriate.
- (8) A person must not hold himself or herself out as a person authorised to carry out tests or inspections to which this Part applies, or issue a vehicle inspection report in relation to any such test or inspection, unless the person is an approved mechanic.

Maximum penalty:

 - (a) in the case of a corporation—200 penalty units, or

2007 No 123

Protection of the Environment Operations (General) Amendment (Vehicle Testing and Inspection) Regulation 2007

Schedule 1

Amendment of Protection of the Environment Operations (General) Regulation 1998

(b) in the case of an individual—100 penalty units.

73 Approved inspection stations

- (1) A proprietor of premises may apply to the EPA for an approval of the premises to be used for the purpose of carrying out tests or inspections to which this Part applies.
- (2) An application under this clause must:
 - (a) be made in the manner and form approved by the EPA, and
 - (b) be supported by any information required by the EPA.
- (3) The EPA may, if it considers it necessary in order to determine the suitability of the applicant for an approval under this clause, require the applicant to furnish to the EPA, within a specified time, any further particulars that the EPA considers necessary.
- (4) The EPA is to determine an application under this clause by granting or refusing to grant the application.
- (5) The EPA may refuse to grant the application:
 - (a) if, in its opinion, the premises the subject of the application or the equipment on the premises are not suitable for the purpose of carrying out tests or inspections to which this Part applies, or
 - (b) if, in its opinion, the applicant is not a fit and proper person to carry out the responsibilities associated with using the premises for that purpose, or
 - (c) for any other reason the EPA considers appropriate.
- (6) The EPA must give notice in writing of the determination of the application for an approval under this clause to the applicant, including, if the application is granted, notice of the date from which the approval takes effect and any conditions to which the approval is subject.
- (7) An approval under this clause:
 - (a) applies to the testing or inspection of motor vehicles generally or to the class or classes of vehicles specified in the approval, and
 - (b) remains in force until it is surrendered, suspended or revoked, and
 - (c) is to be given in the manner and in the form approved by the EPA, and
 - (d) may be given unconditionally or subject to such conditions as the EPA considers appropriate.

- (8) A proprietor of premises must not allow the premises to be used for the purpose of carrying out a test or inspection to which this Part applies unless:
- (a) the premises are an approved inspection station, and
 - (b) the test or inspection of the vehicle is a test or inspection of a vehicle to which the approval applies, and
 - (c) the test or inspection is carried out by an approved mechanic.

Maximum penalty (subclause (8)):

- (a) in the case of a corporation—200 penalty units, or
- (b) in the case of an individual—100 penalty units.

74 Maximum fee for test or inspection

The maximum fee that may be charged for the carrying out of a test or inspection to which this Part applies is:

- (a) in the case of a motorcycle—\$40.15, or
- (b) in any other case—\$60.50.

75 Vehicle inspection reports

- (1) An approved mechanic who carries out a test or inspection to which this Part applies must, in accordance with conditions of the mechanic's approval, complete a vehicle inspection report in the form approved by the EPA.
- (2) Copies of a completed vehicle inspection report must be given to:
 - (a) the owner of the relevant motor vehicle or a person acting on behalf of the owner, and
 - (b) the EPA,in accordance with the conditions of an approval under clause 72 or 73, as the case may be.
- (3) A person must not issue a vehicle inspection report in relation to a test or inspection to which this Part applies if the person knows, or ought reasonably to suspect, that the report is false or misleading in a material particular.

Maximum penalty:

- (a) in the case of a corporation—200 penalty units, or
 - (b) in the case of an individual—100 penalty units.
- (4) The holder of an approval for an approved inspection station who allows a vehicle inspection report to be issued in relation to a test or inspection to which this Part applies that is carried out at the

2007 No 123

Protection of the Environment Operations (General) Amendment (Vehicle Testing and Inspection) Regulation 2007

Schedule 1 Amendment of Protection of the Environment Operations (General) Regulation 1998

station is guilty of an offence if the person knows, or ought reasonably to suspect, that the report is false or misleading in a material particular.

Maximum penalty (subclause (4)):

- (a) in the case of a corporation—200 penalty units, or
- (b) in the case of an individual—100 penalty units.

76 Variation of approvals under this Part

- (1) The EPA may, by notice in writing, vary an approval given under this Part (including the conditions of an approval).
- (2) A variation includes the attaching of a condition to an approval (whether or not any conditions have already been attached), the substitution of a condition, the omission of a condition or the amendment of a condition.
- (3) An approval may be varied on application in writing to the EPA by the holder of the approval or on the initiative of the EPA.
- (4) An approval may be varied at any time during its currency.
- (5) A variation operates from the date of the EPA's decision to grant or issue the variation or another date specified by the EPA in the notice.

77 Surrender of approvals under this Part

- (1) The holder of an approval under this Part may surrender the approval by giving notice in writing to the EPA.
- (2) The surrender of an approval under this clause does not take effect until 28 days, or some other period approved by the EPA, after the notice has been given to the EPA.

78 Suspension or revocation of approvals under this Part

- (1) The EPA may, by notice in writing, suspend or revoke an approval under this Part if:
 - (a) the holder has contravened a provision of this Part, or
 - (b) the holder or the premises concerned no longer satisfies the relevant requirements for approval under this Part, or
 - (c) the holder has failed to comply with a condition to which the approval is subject, or
 - (d) the holder provided false or misleading information in the application for approval, or

- (e) the EPA is, for any reason, of the opinion that the holder is not a fit and proper person to continue to hold the approval.
- (2) A suspension of an approval under this clause may be for a specified period or until further notice in writing by the EPA.
- (3) A suspension or revocation of an approval under this clause operates from the day the notice of the suspension or revocation is given to the holder of the approval or from such later day as the notice specifies.
- (4) The EPA must not suspend or revoke an approval unless before doing so:
 - (a) it has given notice to the holder of the approval that it intends to do so, and
 - (b) it has specified in that notice the reasons for its intention to do so, and
 - (c) it has given the holder a reasonable opportunity to make submissions in relation to the proposed suspension or revocation, and
 - (d) it has taken into consideration any such submissions by the holder.
- (5) An approval may be revoked under this clause during the currency of a suspension.

2007 No 123

Protection of the Environment Operations (General) Amendment (Vehicle Testing and Inspection) Regulation 2007

Schedule 2 Consequential amendment of other regulations

Schedule 2 Consequential amendment of other regulations

(Clause 3)

2.1 Protection of the Environment Operations (Noise Control) Regulation 2000

[1] Clause 13 Use of motor vehicles on road

Omit clause 13 (2). Insert instead:

- (2) A person is not guilty of an offence under this clause arising because the motor vehicle is being taken directly to:
 - (a) a place where repairs or other work required to reduce the noise level of the vehicle are to be carried out, or
 - (b) a place where an authorised officer may inspect or test the vehicle, or
 - (c) a place approved by the EPA for the purposes of section 207 (2) (c) of the Act where a person approved by the EPA for the purposes of that section may inspect or test the vehicle,or is being taken directly from any such place to the place where the vehicle is usually kept.

[2] Clause 26 Defective vehicle notices

Omit clause 26 (6). Insert instead:

- (6) A person is not guilty of an offence under this clause arising because the motor vehicle is being taken directly to:
 - (a) a place where repairs or other work required to remedy the defect are to be carried out, or
 - (b) a place where an authorised officer may inspect or test the vehicle, or
 - (c) a place approved by the EPA for the purposes of section 207 (2) (c) of the Act where a person approved by the EPA for the purposes of that section may inspect or test the vehicle,or is being taken directly from any such place to the place where the vehicle is usually kept.

[3] Clause 27 Defective vehicle labels

Omit clause 27 (6). Insert instead:

- (6) A person does not commit an offence under subclause (5) if the motor vehicle is being taken directly to:
 - (a) a place where repairs or other work required to remedy the defect are to be carried out, or
 - (b) a place where an authorised officer may inspect or test the vehicle, or
 - (c) a place approved by the EPA for the purposes of section 207 (2) (c) of the Act where a person approved by the EPA for the purposes of that section may inspect or test the vehicle,
 or is being taken directly from any such place to the place where the vehicle is usually kept.

2.2 Protection of the Environment Operations (Penalty Notices) Regulation 2004

Schedule 1 Penalty notice offences

Insert at the end of the matter relating to the *Protection of the Environment Operations (General) Regulation 1998*, in Columns 1, 2, 3 and 4, respectively:

Clause 72 (8)	2A	\$500	\$1000
Clause 73 (8)	2A	\$500	\$1000
Clause 75 (3)	2A	\$500	\$1000
Clause 75 (4)	2A	\$500	\$1000