



New South Wales

Road Transport (Driver Licensing) Amendment (Facial Recognition Technology) Regulation 2009

under the

Road Transport (Driver Licensing) Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (Driver Licensing) Act 1998*.

MICHAEL DALEY, MP
Minister for Roads

Explanatory note

The object of this Regulation is to allow for the use of facial recognition technology (biometric technology used to identify a person by a comparison of images, using various facial features such as a person's eyes, nose and mouth as the points of comparison) in the verification of the identity of people who apply for a driver licence, a certificate of registration or any other licence or authority that the Roads and Traffic Authority holds photographs in respect of and to check photograph databases to ensure that no person is recorded using more than one identity.

This Regulation is made under the *Road Transport (Driver Licensing) Act 1998*, including section 19 (the general regulation-making power) and section 40 (1) (g) (which empowers the making of regulations prescribing a purpose for which photographs may be kept and used).

2009 No 466

Clause 1 Road Transport (Driver Licensing) Amendment (Facial Recognition Technology) Regulation 2009

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1 Name of Regulation

This Regulation is the *Road Transport (Driver Licensing) Amendment (Facial Recognition Technology) Regulation 2009*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Road Transport (Driver Licensing) Regulation 2008

Clause 108A

Insert after clause 108:

108A **Keeping and use of photographs: use of facial recognition technology**

- (1) For the purposes of section 40 (1) (g) of the Act, the Authority may keep or use a photograph to which Part 5 of the Act applies to conduct comparisons using facial recognition technology:
 - (a) to check whether an applicant for the issue, replacement or renewal of a relevant permit has previously been issued with a relevant permit using another identity, and
 - (b) to check whether any person's photograph has been taken and recorded using more than one identity.

- (2) In this clause:

facial recognition technology means a biometric technology used to identify a person by a comparison of digital images of human faces, using various facial features such as a person's eyes, nose and mouth as the points of comparison.

relevant permit means any of the following:

- (a) a driver licence,
- (b) a "proof of age" card,
- (c) a Photo Card issued under the *Photo Card Act 2005*,
- (d) a licence under the *Firearms Act 1996*,
- (e) a licence under the *Security Industry Act 1997*,
- (f) any other licence, permit or similar authority issued using a photograph to which Part 5 of the Act applies,
- (g) the registration of a vehicle under the *Road Transport (Vehicle Registration) Act 1997*,
- (h) a licence or certificate of registration referred to in Schedule 3A to the *Licensing and Registration (Uniform Procedures) Act 2002*,
- (i) any other licence, permit or similar authority issued using a photograph kept or used by the Authority for any purpose for which a photograph to which Part 4A of the *Licensing and Registration (Uniform Procedures) Act 2002* applies may be used,

2009 No 466

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Schedule 1

Amendment of Road Transport (Driver Licensing) Regulation 2008

- (j) a mobility parking scheme authority under the regulations made under the *Road Transport (Safety and Traffic Management) Act 1999*.

Note. Section 80H (1) (f) of the *Licensing and Registration (Uniform Procedures) Act 2002* provides that a photograph taken for the purposes of that Act may be kept and used for any purpose for which a photograph to which Part 5 of the *Road Transport (Driver Licensing) Act 1998* applies may be kept and used by the RTA. Section 18 (1) (e) of the *Photo Card Act 2005* makes similar provision for photographs taken under that Act.

As a result, photographs to which those Acts apply may be kept and used for the purposes prescribed by this clause.