



New South Wales

Road Transport (General) Amendment (Certification of Vehicles) Regulation 2011

under the

Road Transport (General) Act 2005

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport (General) Act 2005*.

DUNCAN GAY, MLC
Minister for Roads and Ports

Explanatory note

The object of this Regulation is to make provision with respect to the following:

- (a) to permit a person who is aggrieved by the following decisions of Roads and Maritime Services under Part 5A of the *Road Transport (Vehicle Registration) Regulation 2007* to appeal against the decision to a Local Court:
 - (i) a decision to cancel a compliance certificate,
 - (ii) a decision to refuse an application for a certifier's licence or for the renewal or variation of a certifier's licence (but not a decision to refuse an application for a licence on the ground that Roads and Maritime Services is of the opinion that the person is not a fit and proper person to hold such a licence),
 - (iii) a decision to cancel or suspend a certifier's licence or vary a certifier's licence or the term of a certifier's licence (but not a decision to impose or vary a condition on all certifier's licences or a decision to immediately suspend a certifier's licence),
- (b) to prescribe certain offences under the *Road Transport (Vehicle Registration) Regulation 2007* as penalty notice offences,
- (c) to make statute law amendments.

This Regulation is made under the *Road Transport (General) Act 2005*, including sections 10 (the general regulation-making power), 183, 239 (3) and 242.

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Clause 1 Road Transport (General) Amendment (Certification of Vehicles) Regulation
2011

Road Transport (General) Amendment (Certification of Vehicles) Regulation 2011

under the

Road Transport (General) Act 2005

1 Name of Regulation

This Regulation is the *Road Transport (General) Amendment (Certification of Vehicles) Regulation 2011*.

2 Commencement

This Regulation commences on 2 December 2011 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Road Transport (General) Regulation 2005

[1] Clause 7 Service of notices on registered operators and delivery of things to Authority under the Road Transport (Vehicle Registration) Act 1997

Insert “on the registered operator of a registrable vehicle” after “served” in clause 7 (1).

[2] Clause 25AA

Insert before clause 25:

25AA Registrar to give notice of appeals under Division

- (1) The relevant registrar of the Local Court must give notice of the time and place of the hearing of any appeal under this Division to the Authority and to the appellant and, in the notice to the Authority, is to inform the Authority of the grounds of the appeal.
- (2) The time of the hearing of an appeal under this Division must be not earlier than 21 days after the date on which the notice under this clause is given to the Authority.
- (3) The hearing of an appeal under this Division may proceed despite any omission or error in a notice under this clause, 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.

[3] Clauses 25 (4)–(6), 28 (3)–(5) and 29A (3)–(5)

Omit the subclauses.

[4] Clause 26 Determination of appeals concerning revocation of interlock device approvals

Omit “clause 25” wherever occurring in clause 26 (1) and (2) and insert instead “this clause”. Renumber those subclauses as clause 25 (4) and (5) respectively and omit clause 26.

[5] Clause 29 Determination of appeals concerning Accreditation Schemes

Omit “clause 28” wherever occurring in clause 29 (1) and (3) and insert instead “this clause”. Omit “subclause (1)” from clause 29 (2) and insert instead “subclause (4)”. Renumber clause 29 (1)–(3) as clause 28 (3)–(5) respectively and omit clause 29.

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Schedule 1 Amendment of Road Transport (General) Regulation 2005

[6] **Clause 29B Determination of appeals concerning mobility parking scheme authorities**

Omit “clause 29A” wherever occurring in clause 29B (1) and (3) and insert instead “this clause”. Omit “subclause (1)” from clause 29B (2) and insert instead “subclause (4)”. Renumber clause 29B (1)–(3) as clause 29A (3)–(5) respectively and omit clause 29B.

[7] **Clause 29B**

Insert after clause 29A:

29B Appeals concerning compliance certificates and certifier’s licences

- (1) Any person aggrieved by any of the following decisions of the Authority under Part 5A of the *Road Transport (Vehicle Registration) Regulation 2007* (the **vehicle registration regulation**) may appeal against the decision to the Local Court by lodging a notice of appeal with the Court not later than 21 days after being notified of the decision:
 - (a) a decision to cancel a compliance certificate,
 - (b) a decision to refuse an application for a certifier’s licence or for the renewal or variation of a certifier’s licence (but not a decision to refuse an application for a licence on the ground that the Authority is of the opinion that the person is not a fit and proper person to hold such a licence),
 - (c) a decision to cancel or suspend a certifier’s licence or vary a certifier’s licence or the term of a certifier’s licence (but not a decision to impose or vary a condition on all certifier’s licences or a decision under clause 76AK of the vehicle registration regulation to immediately suspend a certifier’s licence).
- (2) A decision that is the subject of an appeal under this clause has effect:
 - (a) only if the Local Court hearing the appeal confirms the decision or the appeal is withdrawn, and
 - (b) subject to any variation of the decision by the Local Court, and
 - (c) on and from the date on which the Local Court confirms the decision or on such later date as the Local Court may order or, if the appeal is withdrawn, on the date on which it is withdrawn.
- (3) A notice of appeal under this clause is to specify the grounds of the appeal.

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- (4) The Local Court is to hear and determine an appeal made to it under this clause 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.
- (5) For the purposes of varying a decision of the Authority under subclause (4), the Court may exercise only such powers as the Authority could have exercised under the vehicle registration regulation when making that decision.
- (6) The decision of the Local Court in respect of an appeal made under this clause is final and is binding on the appellant and on the Authority.

[8] Schedule 3 Penalty notice offences

Omit “Clause 55 (3);” from Column 1 of the matter under the heading *Road Transport (Vehicle Registration) Regulation 2007*.

[9] Schedule 3

Insert in appropriate order under the heading *Road Transport (Vehicle Registration) Regulation 2007* in Columns 1, 2 and 3 respectively:

Clause 55A	Class 1, 2	Level 8
Clause 76AC (1)	Class 1, 2	Level 9
Clause 76AD (2); Clause 76AD (3); Clause 76AL (1); Clause 76AL (2); Clause 76AL (3)	Class 2	Level 8
Clause 76AD (4)	Class 2	Level 5
Clause 76AI (5); Clause 76AM (2); Clause 76AM (3); Clause 76AN (1); Clause 76AN (2)	Class 2	Level 9