



New South Wales

Intoxicated Persons (Sobering Up Centres Trial) Amendment Regulation 2013

under the

Intoxicated Persons (Sobering Up Centres Trial) Act 2013

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Intoxicated Persons (Sobering Up Centres Trial) Act 2013*.

MICHAEL GALLACHER, MLC
Minister for Police and Emergency Services

Explanatory note

The object of this Regulation is to amend the *Intoxicated Persons (Sobering Up Centres Trial) Regulation 2013* to make further provision to facilitate a trial of sobering up centres for intoxicated persons. The Regulation:

- (a) identifies the catchment areas for the sobering up centres participating in the trial, and
- (b) prescribes first aid, drug and alcohol treatment or health skills or qualifications for health assessment officers in accredited sobering up centres, and
- (c) sets out further conditions of accreditation that will apply to accredited sobering up centres, and
- (d) prescribes further grounds for the suspension or cancellation of accreditation in relation to accredited sobering up centres, and
- (e) sets out further information that must be provided to intoxicated persons arriving at sobering up centres, and
- (f) makes provision for the levying and enforcement of the cost recovery charge for intoxicated persons admitted to the Sydney City sobering up centre, and
- (g) deals with the exchange of certain information between relevant government agencies for the purposes of the trial, and
- (h) prescribes the records that must be made and kept in relation to the trial.

This Regulation is made under the *Intoxicated Persons (Sobering Up Centres Trial) Act 2013*, including sections 11 (2), 23 (2) (c), 26 (2) (b) and (5) (g) and 28 (the general regulation-making power).

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Clause 1

Intoxicated Persons (Sobering Up Centres Trial) Amendment Regulation
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**Intoxicated Persons (Sobering Up Centres Trial)
Amendment Regulation 2013**

under the

Intoxicated Persons (Sobering Up Centres Trial) Act 2013

1 Name of Regulation

This Regulation is the *Intoxicated Persons (Sobering Up Centres Trial) Amendment Regulation 2013*.

2 Commencement

This Regulation commences on 1 July 2013 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Intoxicated Persons (Sobering Up Centres Trial) Regulation 2013

[1] Part 1, heading

Insert before clause 1:

Part 1 Preliminary

[2] Clauses 3A and 3B

Insert after clause 3:

3A Catchment areas

A geographical area identified in a map in Schedule 1 for an authorised sobering up centre is specified as the catchment area for that sobering up centre.

3B Health assessment officers

The following classes of first aid, drug and alcohol treatment or health skills or qualifications are prescribed for the purposes of paragraph (d) of the definition of *health assessment officer* in section 4 of the Act:

- (a) a current senior first aid certificate under the Australian Qualifications Framework,
- (b) a current Certificate IV in Alcohol and Other Drugs Work awarded by the TAFE Commission.

[3] Part 2, heading

Insert before clause 4:

Part 2 Accreditation of sobering up centres

[4] Clause 5 Conditions of accreditation of sobering up centres

Insert “within 24 hours of becoming aware” after “writing” in clause 5 (e).

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[5] Clause 5 (i)

Insert after clause 5 (h):

- (i) the accredited person must notify the Director-General in writing within 24 hours of the occurrence at the sobering up centre of any of the following:
 - (i) any death or serious accident requiring hospitalization,
 - (ii) any alleged sexual assault or physical assault or serious injury,
 - (iii) any serious neglect or ill-treatment,
 - (iv) any theft.

[6] Clause 6

Insert after clause 5:

6 Grounds for suspension or cancellation of accreditation: section 23 (2) (c)

The Director-General may suspend or cancel an accreditation on the grounds that the accredited person has contravened any provision of the standard operating procedures of the accredited person's sobering up centre as agreed between the Director-General and the accredited person and in force at the time of the contravention.

[7] Part 3

Insert at the end of the Regulation:

Part 3 Detention and transport of intoxicated persons to sobering up centres

7 Admission of persons to sobering up centres

As soon as is practicable after arriving at an authorised sobering up centre, an intoxicated person must be informed that:

- (a) the person may contact a responsible person, and
- (b) the person is entitled to food and drink at the centre.

8 Cost recovery charge

- (1) A person who has been admitted to the Sydney City sobering up centre must pay the following cost recovery charge:
 - (a) for a first admission to that centre—\$200,

- (b) for a second admission to that centre—\$400,
 - (c) for a third admission to that centre—\$600,
 - (d) for a fourth or subsequent admission to that centre—\$800.
- (2) A person who has been admitted to the Sydney City sobering up centre must:
- (a) be given a notice setting out the cost recovery charge that the person is required to pay under the Act, and
 - (b) pay the cost recovery charge to the State Debt Recovery Office in the manner set out in the notice within 28 days of receipt of the notice.

9 Enforcement of unpaid cost recovery charge

- (1) Part 4 of the *Fines Act 1996* applies to the enforcement of such a cost recovery charge with such modifications as are specified in Schedule 2.
- Note.** Section 18 of the Act provides that Divisions 3 (Driver licence or vehicle registration suspension or cancellation) and 6 (Imprisonment) of Part 4 of the *Fines Act 1996* do not apply in relation to the enforcement of a cost recovery charge.
- (2) A person is not required to pay any amount as enforcement costs under the *Fines Act 1996* in relation to a cost recovery charge.

10 No court fee for application to Local Court to waive or reduce cost recovery charge

A person is not required to pay any court fee in relation to any application to the Local Court made under section 19 of the Act.

Part 4 Miscellaneous

11 Exchange of information: section 26

- (1) Closed circuit television footage (in any format) is prescribed as information for the purposes of section 26 (2) (b) of the Act, but only if the sharing or exchanging of the closed circuit television footage is reasonably necessary for the following:
- (a) the exercise of functions under the Act or this Regulation,
 - (b) the evaluation of the operation and effectiveness of an authorised sobering up centre.

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- (2) The following persons or bodies are prescribed as relevant agencies for the purposes of section 26 (5) (g) of the Act:
 - (a) the Department of Attorney General and Justice,
 - (b) the Ambulance Service of NSW.

12 Records

- (1) The Commissioner of Police (in relation to the Sydney City sobering up centre) and the accredited person (in relation to the person's accredited sobering up centre) are to ensure that records are made relating to the following matters:
 - (a) details of any incidents or injuries occurring in the centre (whether to staff, persons admitted to the centre or other persons at the centre),
 - (b) in relation to an accredited sobering up centre—the qualifications of members of staff engaged or employed to operate the centre or to care for or detain intoxicated persons at the centre.
- (2) A police officer who detains an intoxicated person under Part 2 of the Act and takes the person to an authorised sobering up centre is to make a record, containing the following particulars in relation to the detention of the intoxicated person:
 - (a) the name and rank of the police officer,
 - (b) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
 - (c) the grounds on which the person is detained,
 - (d) the date and time when the following occur:
 - (i) the person's detention commences,
 - (ii) the person is brought to the authorised sobering up centre,
 - (e) the name of the authorised sobering up centre,
 - (f) if the person is taken to the Sydney City sobering up centre, the name and rank of the officer into whose custody the person is delivered,
 - (g) if the person is taken to an accredited sobering up centre, the name of the person into whose custody the person is delivered,
 - (h) details of any penalty notice issued to the person by the police officer.
- (3) The person in charge of the Sydney City sobering up centre (*the responsible detention officer*), or a person authorised to do so by

the responsible detention officer, is to make a record, containing the following particulars in relation to the detention of an intoxicated person at that centre:

- (a) the name and rank of the responsible detention officer,
 - (b) the name and rank of the police officer who brings the intoxicated person to the centre,
 - (c) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
 - (d) the grounds on which the person is detained,
 - (e) the date and time when the following occur:
 - (i) the intoxicated person is brought to the centre,
 - (ii) the intoxicated person is released from detention,
 - (f) details of any arrangement by a detention officer at the centre for medical treatment or medication to be administered to the intoxicated person and the time at which the arrangement is made,
 - (g) details of any cost recovery charge notice issued to the person (including the amount of the charge),
 - (h) details of any penalty notice issued to the person while the person is at the centre.
- (4) The person in charge of an accredited sobering up centre (*the responsible care officer*), or a person authorised to do so by the responsible care officer, is to make a record (in a form approved by the Director-General), containing the following particulars in relation to the care of an intoxicated person at that centre:
- (a) the name of the responsible care officer,
 - (b) the name and rank of the police officer who brings the intoxicated person to the centre,
 - (c) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
 - (d) the grounds on which the person is cared for,
 - (e) the date and time when the following occur:
 - (i) the intoxicated person is brought to the centre,
 - (ii) the intoxicated person departs from detention,
 - (f) details of any arrangement for medical treatment or medication to be administered to the intoxicated person and the time at which the arrangement is made.

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- (5) A person who searches an intoxicated person and the person's belongings under section 11 (5) of the Act is to make a record, containing the following particulars:
 - (a) the name and rank (if any) of the person who carries out the search (*the searching detention officer*),
 - (b) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
 - (c) a description of any personal belongings of the intoxicated person of which the searching detention officer has taken possession as a result of a search of the intoxicated person.
- (6) Nothing in this clause requires a detention officer to make a record, in relation to the detention of an intoxicated person, containing any particular that is contained in a record made in relation to the same detention of the intoxicated person by a detention officer of the same kind.
- (7) A record required to be made under this clause is to be kept for a period of 3 years after it is made.
- (8) The following persons (or a person authorised by one of the following persons) may, at any reasonable time, inspect a record required to be made under this clause:
 - (a) the Commissioner of Police,
 - (b) the Director-General.
- (9) A person who has at any time been detained under the Act (or a person authorised by such a person) may, at any reasonable time, inspect a copy of a record required to be made under this clause that relates to the person. However, the name of the responsible care officer or any other member of staff engaged or employed at an accredited sobering up centre is to be obscured in or removed from any such copy of a record.
- (10) In this clause:

detention officer means a responsible detention officer and a searching detention officer.

Schedule 1 Catchment areas

(Clause 3A)

Part 1 Interpretation

1 Inclusion of roads

If the boundary of any area identified in a map in this Schedule runs along a road, then the whole road (including the footpaths on both sides of the road) is taken to be included within the identified area.

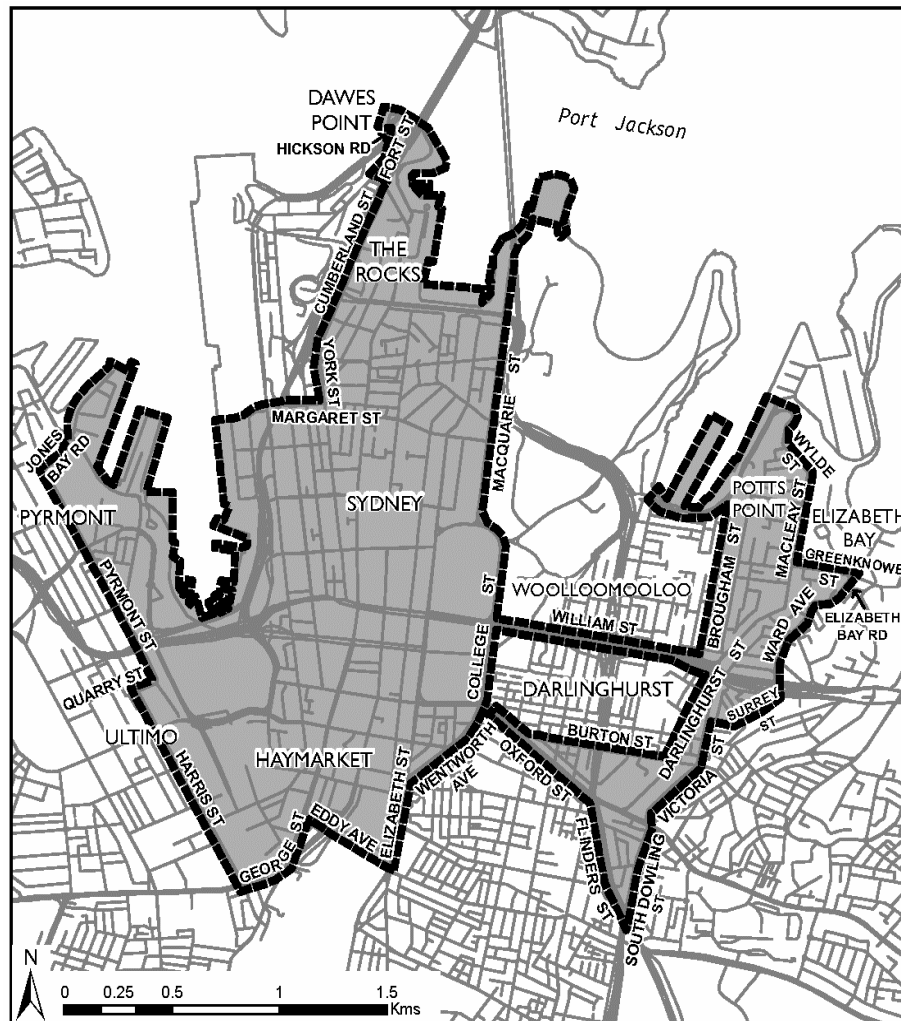
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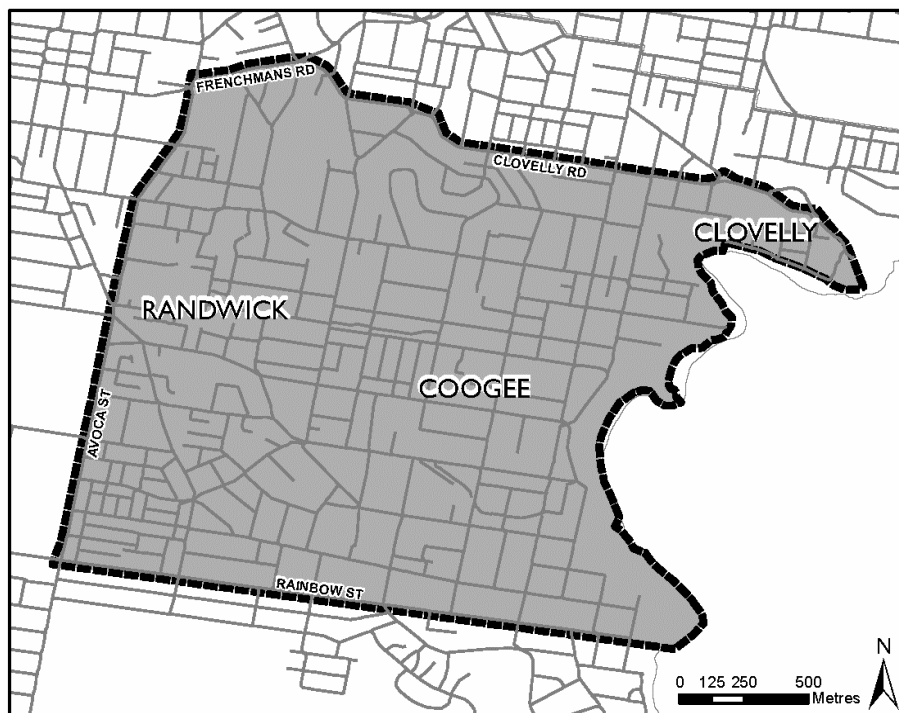
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Part 2 Sydney City sobering up centre catchment area



Part 3 Coogee sobering up centre catchment area



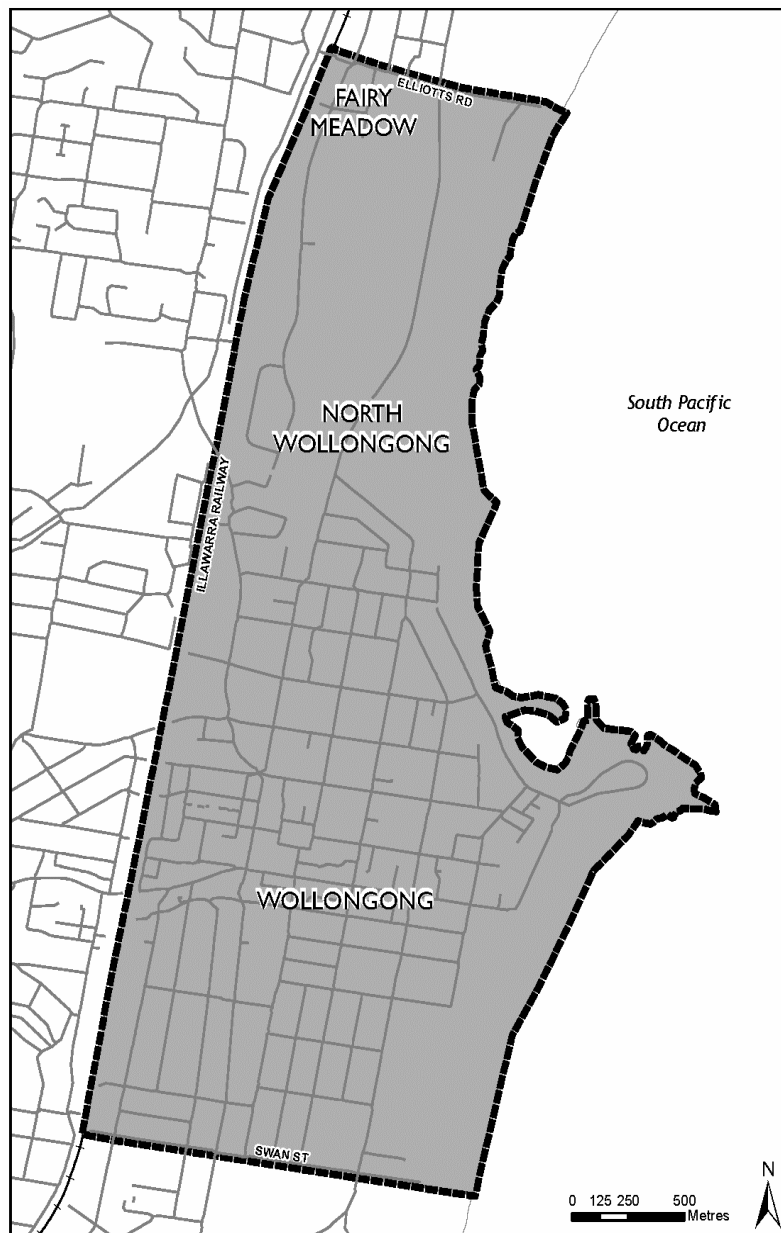
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Part 4 Wollongong sobering up centre catchment area



Schedule 2 Modification of application of Part 4 of Fines Act 1996 No 99 to unpaid cost recovery charges

(clause 9 (1))

[1] Section 58 Summary of enforcement procedure

Omit section 58 (1) (b) (**Driver licence or vehicle registration suspension or cancellation**).

[2] Section 58 (1) (c)

Omit “If the fine defaulter does not have a driver licence or a registered vehicle or the fine remains unpaid after 6 months,”.

Insert instead “If the fine is not paid within the period specified,”.

[3] Section 58 (1) (e)

Omit the paragraph.

[4] Section 60 What notice must say

Omit “and enforcement costs” from section 60 (1) (b).

[5] Section 60 (1) (c)

Omit “any driver licence or vehicle registration suspended or cancelled or”.

[6] Section 60 (1) (d)

Omit the paragraph.

[7] Section 60 (1A)

Omit the subsection.

[8] Section 71 When enforcement action taken under this Division

Omit section 71 (1). Insert instead:

- (1) Enforcement action is to be taken against a fine defaulter under this Division if:
 - (a) the fine defaulter has not paid a fine as required by the notice of the fine enforcement order served on the fine defaulter, or
 - (b) the State Debt Recovery Office has extended the time for payment of a fine, and the fine defaulter has not paid the fine by the extended due date, or

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- (c) the State Debt Recovery Office has allowed the payment of a fine by instalments, and the fine defaulter has not paid every such instalment at the time specified by the Office.

[9] Section 76A Sheriff's additional costs of taking enforcement action under this Division

Omit the section.