



# Protection of the Environment Operations (Clean Air) Amendment (Motor Sport) Regulation 2013

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*.

ROBYN PARKER, MP  
Minister for the Environment

## Explanatory note

The object of this Regulation is to amend the *Protection of the Environment Operations (Clean Air) Regulation 2010* (**the Principal Regulation**) as follows:

- (a) to provide for exemptions from certain motor vehicle-related offences against the *Protection of the Environment Operations Act 1997* where the vehicles concerned are used for motor racing or off-road motor sport,
- (b) to revise, in line with those exemptions, defences to certain motor vehicle-related offences of the Principal Regulation,
- (c) to further provide for control equipment that must be fitted to petrol storage tanks situated on certain petrol stations for the purposes of recovering petrol vapour,
- (d) to include Murray Shire among the local government areas in which burning vegetation and other waste in the open, or by incinerating, is regulated,
- (e) to make other amendments of a law revision nature, including by repealing a defence relating to vehicles used for motor-racing or off-road motor sport that is redundant because the offence concerned applies only to certain heavy vehicles, which are not used in motor-racing or off-road motor sport.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including sections 286 and 323 (the general regulation-making power) and Schedule 2.

**2013 No 57**

Clause 1

Protection of the Environment Operations (Clean Air) Amendment (Motor Sport) Regulation 2013

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**Protection of the Environment Operations (Clean Air) Amendment (Motor Sport) Regulation 2013**

under the

Protection of the Environment Operations Act 1997

**1 Name of Regulation**

This Regulation is the *Protection of the Environment Operations (Clean Air) Amendment (Motor Sport) Regulation 2013*.

**2 Commencement**

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

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## Schedule 1      Amendment of Protection of the Environment Operations (Clean Air) Regulation 2010

**[1] Clause 14 Definitions**

Insert in alphabetical order:

*use*, in relation to a motor vehicle, has the same meaning as in the *Road Transport (Vehicle Registration) Act 1997*.

**[2] Clause 16 Motor vehicles emitting excessive air impurities**

Omit clause 16 (3) (b). Insert instead:

- (b) was not capable of being registered at all or, as a result of that construction or modification, was only capable of being registered conditionally, and
- (c) was only used in, or en route to or from, a motor racing or off-road motor sporting competition.

**[3] Clause 19A**

Insert after clause 19:

**19A Exemption from offence relating to sale of motor vehicles**

A person who sells a motor vehicle is exempt from section 155 of the Act if the motor vehicle:

- (a) is constructed or has been modified solely for use in motor racing or off-road motor sport, and
- (b) as a result of that construction or modification, is only capable of being registered conditionally.

**Note.** Section 160 (6) of the Act provides for a defence to a prosecution for the offence under section 155 where the motor vehicle concerned is a motor racing or off-road motor sporting vehicle that is not registrable under the *Road Transport (Vehicle Registration) Act 1997*.

**[4] Clause 21 Use of motor vehicle requires anti-pollution device**

Omit clause 21 (3).

**[5] Clause 23 Removal or adjustment of anti-pollution devices**

Omit “or modified and the adjustment or modification results” from clause 23 (1) (b).

Insert instead “, or modified, in such a way as to result”.

## 2013 No 57

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Schedule 1

Amendment of Protection of the Environment Operations (Clean Air) Regulation 2010

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### [6] Clause 23 (2) (a) and (a1)

Omit clause 23 (2) (a). Insert instead:

- (a) that the removal, disconnection, impairment, adjustment or modification was done in order to service, repair or replace the anti-pollution device or to improve its efficiency with respect to minimising air pollution, or
- (a1) that the removal, disconnection, impairment, adjustment or modification was done in order to facilitate the use of a motor vehicle for motor racing or off-road motor sport and the vehicle:
  - (i) immediately before that removal or other action, was either not capable of being registered at all or (as a result of its construction, or prior modification, for use in motor racing or off-road motor sport) was only capable of being registered conditionally, and
  - (ii) is to be used in that condition only in a competition, or en route to or from, a motor racing or off-road motor sporting competition, or

### [7] Clause 23A

Insert after clause 23:

#### 23A Exemption from offence against section 157

A person is exempt from section 157 of the Act if:

- (a) the removal, disconnection, impairment, adjustment or modification of the motor vehicle concerned is done in order to facilitate the use of the vehicle for motor racing or off-road motor sport, and
- (b) immediately before the removal or other action (and as a result of its construction, or prior modification, for use in motor racing or off-road motor sport), the vehicle is only capable of being registered conditionally, and
- (c) the vehicle is to be used in that condition only in a competition, or en route to or from, a motor racing or off-road motor sporting competition.

**Note.** Section 160 (3) (c) of the Act provides for a defence to a prosecution for the offence under section 157 where the motor vehicle concerned is a motor racing or off-road motor sporting vehicle that is not registrable under the *Road Transport (Vehicle Registration) Act 1997*.

**[8] Clause 69 Control equipment for storage tanks on petrol service stations**

Omit clause 69 (1) (k). Insert instead:

- (k) a storage tank vent pipe that is fitted with:
  - (i) a pressure vacuum valve, or other similar device, that:
    - (A) meets the pressure vacuum settings criteria specified in the standards and guidelines for the purposes of this subclause, and
    - (B) on the advice of a duly qualified person, is of a suitable size and type and possesses suitable safety features, and
    - (C) has been installed as advised by a duly qualified person, and
  - (ii) a 10 millimetre orifice that is arranged so that the pressure vacuum valve or other similar device would continue to operate if the orifice were to become blocked,

**[9] Schedule 8 Local government areas in which burning is prohibited**

Insert "Murray Shire" in alphabetical order in Parts 2 and 3.