



New South Wales

Road Transport (General) Amendment (Drug and Alcohol Testing) Regulation 2014

under the

Road Transport Act 2013

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Road Transport Act 2013*.

DUNCAN GAY, MLC
Minister for Roads and Freight

Explanatory note

The objects of this Regulation are as follows:

- (a) to prescribe certain persons and classes of persons who are authorised to take samples for the purposes of testing for alcohol and drug use under the *Road Transport Act 2013*,
- (b) to revise the prescribed standard applying to an approved oral fluid analysing instrument under the Act,
- (c) to make provision of a savings and transitional nature relating to the use of existing evidence certificate forms by analysts, as a consequence of recent amendments to the Act.

This Regulation is made under the *Road Transport Act 2013*, including section 23 (the general regulation-making power), paragraph (b) of the definition of ***approved oral fluid analysing instrument*** and paragraph (c) of the definition of ***authorised sample taker*** in clause 1 (1) of Schedule 3 and clause 1 of Schedule 4.

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1 Name of Regulation

This Regulation is the *Road Transport (General) Amendment (Drug and Alcohol Testing) Regulation 2014*.

2 Commencement

This Regulation commences on 1 February 2015 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Road Transport (General) Regulation 2013

[1] Clause 28A

Insert after clause 28:

28A Persons prescribed as authorised sample takers

For the purposes of paragraph (c) of the definition of *authorised sample taker* in clause 1 (1) of Schedule 3 to the Act, the following persons or classes or descriptions of persons are prescribed as being authorised to take samples for the purposes of that Schedule:

- (a) an enrolled nurse,
- (b) a person employed to work at a hospital (including a hospital as prescribed by clause 29 of this Regulation), whose duties include taking blood samples or other specimens for laboratory testing.

[2] Clause 31 Standards for approved oral fluid analysing instruments and testing devices

Omit “where the concentration of the drug in the fluid is 25 nanograms per millilitre or greater” from clause 31 (1).

[3] Schedule 6 Savings and transitional provisions

Insert after clause 3:

4 Use of existing evidence certificate forms by analysts

- (1) A form of evidence certificate that was prepared in accordance with former clause 36 (5) of Schedule 3 to the Act before the relevant day so that it could be used under that clause when completed:
 - (a) is taken to be, and is to be construed as, a form of evidence certificate prepared in accordance with new clause 36 (5) of Schedule 3 to the Act, and
 - (b) may, during the transitional period, be completed in accordance with and used under that clause.
- (2) In this clause:

former clause 36 (5) of Schedule 3 to the Act means clause 36 (5) as in force immediately before the relevant day.

new clause 36 (5) of Schedule 3 to the Act means clause 36 (5) as amended by the *Road Transport Amendment (Alcohol and Drug Testing) Act 2014*.

relevant day means 1 February 2015 (being the day on which the *Road Transport Amendment (Alcohol and Drug Testing) Act 2014* commences).

transitional period means the period of 12 months commencing on the relevant day.