



New South Wales

Motor Vehicle Sports (Public Safety) Regulation 2015

under the

Motor Vehicle Sports (Public Safety) Act 1985

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Motor Vehicle Sports (Public Safety) Act 1985*.

STUART AYRES, MP
Minister for Sport

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Motor Vehicle Sports (Public Safety) Regulation 2010*, which is repealed on 1 September 2015 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) licences for motor vehicle racing,
- (b) motor vehicle racing grounds,
- (c) the conduct of motor vehicle race meetings and the safety of persons during those meetings,
- (d) the membership of advisory committees,
- (e) savings and formal matters.

This Regulation is made under the *Motor Vehicle Sports (Public Safety) Act 1985*, including sections 4, 6 (a), 16 (2) (a) and 17 (the general regulation-making power).

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	3
2 Commencement	3
3 Definitions	3
Part 2 Licences	
4 Interest in land to be held by licensee	4
5 Application for issue of licence	4
6 Application for renewal of licence	4
7 Conditions of licence	4
8 Fees for issue and renewal of licence	4
9 Form of licence	5
10 Transfer of licence	5
11 Contravention of conditions of licences	5
Part 3 Motor vehicle racing grounds	
12 Approval of alterations or additions	6
13 Broadcasting structures	6
14 Provision of effective communication system	6
15 Pit area	6
16 Paddock area	7
17 Fuelling	7
18 Media personnel and photographers	7
19 Restricted access to unauthorised areas	8
20 Inspection of licensed ground	8
Part 4 Race meetings	
21 Control of persons attending a race meeting	9
22 Commencement of races or events	9
23 Safety fence gates not to be opened during races	9
24 Cessation of races or events	9
25 Conveyance of passengers	10
26 Competitor to comply with directions	10
Part 5 Miscellaneous	
27 Advisory committees	11
28 Savings	11
Schedule 1 Prescribed licence conditions	12

Motor Vehicle Sports (Public Safety) Regulation 2015

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Motor Vehicle Sports (Public Safety) Act 1985

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Motor Vehicle Sports (Public Safety) Regulation 2015*.

2 Commencement

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

Note. This Regulation replaces the *Motor Vehicle Sports (Public Safety) Regulation 2010*, which is repealed on 1 September 2015 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Chief Executive means the Chief Executive of the Office of Sport.

development consent has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

ground means a motor vehicle racing ground.

local council, in relation to a ground, means the council for the local government area in which the ground is situated.

official, in relation to a meeting, means a person appointed by the licensee, promoter or organisation conducting the meeting to assist with the conduct of that meeting.

paddock area means any part of a ground set aside as a paddock area under clause 16 and notified by signs erected on or near that part.

pit area means any part of a ground set aside as a pit area under clause 15 and notified by signs erected on or near that part.

race meeting means a meeting for motor vehicle racing and includes practice for any such meeting.

the Act means the *Motor Vehicle Sports (Public Safety) Act 1985*.

track means the part of a ground approved by the Minister, by notice in writing to the licensee of a ground, for use by motor vehicles for motor vehicle racing.

unauthorised area means any part of a ground designated an unauthorised area by the Minister under clause 19.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Licences

4 Interest in land to be held by licensee

For the purposes of section 4 of the Act, an interest that confers on the holder of the interest the right to immediate possession of the land is a prescribed interest in land.

5 Application for issue of licence

An application for the issue of a licence for a ground must be made to the Chief Executive in the form approved by the Chief Executive and be accompanied by the following:

- (a) a certificate from the local council:
 - (i) stating that the development consent is not necessary for the use of the ground for the purpose of motor vehicle racing, or
 - (ii) giving particulars of the development consent granted by the council for the use of the ground for that purpose and of any conditions imposed on that consent,
- (b) evidence that the applicant has the right to immediate possession of the land to be used as the ground,
- (c) evidence that the applicant is eligible to effect public risk insurance cover referred to in clause 1 of Schedule 1,
- (d) 3 copies of the plans of, and specifications for, the ground, drawn to scale and showing details of the following:
 - (i) the location of the ground, including details of access to the ground from roads or road related areas,
 - (ii) spectator areas and spectator fencing,
 - (iii) the length, width, composition and location of the track (unless the application is for a licence for an enduro circuit),
 - (iv) any safety fences and other safety devices, such as sand traps, embankments, cuttings and walls,
 - (v) car parks and toilets,
 - (vi) any parts of the ground proposed to be set aside as a pit area or paddock area,
- (e) a statement of the maximum number of vehicles competing at any one time for each type of event to be held at the ground,
- (f) if the applicant is not the owner of the land on which the ground is situated, evidence of the consent of the owner of the land to the use of the ground for the conduct of race meetings.

6 Application for renewal of licence

An application to renew a licence must be made by the licensee to the Chief Executive in the form approved by the Chief Executive.

7 Conditions of licence

For the purposes of section 6 (a) of the Act, the prescribed conditions of a licence are set out in Schedule 1.

8 Fees for issue and renewal of licence

The fee prescribed for the issue or renewal of a licence is \$100.

9 Form of licence

A licence is to be in the form determined by the Chief Executive.

10 Transfer of licence

- (1) An application for the transfer of a licence must be made to the Chief Executive in writing by the person to whom the licence is to be transferred.
- (2) The application must be accompanied by the following:
 - (a) the licence proposed to be transferred,
 - (b) written evidence of the consent of the licensee to the transfer,
 - (c) written evidence that the person to whom the licence is to be transferred has the right to immediate possession of the land on which the ground to which the licence relates is situated.
- (3) An application for the transfer of a licence is to be granted only if the Minister approves the transfer.

11 Contravention of conditions of licences

- (1) The licensee of a ground must not contravene, by act or omission, a condition of the licence.
Maximum penalty: 5 penalty units.
- (2) Nothing in this clause affects any liability under section 8 (Unlawful race meetings) of the Act but this clause does not render a person liable to be proceeded against both for a contravention of that section and of this clause in respect of the same act or omission.

Part 3 Motor vehicle racing grounds

12 Approval of alterations or additions

- (1) The licensee of a ground must submit to the Minister for approval full particulars of any proposal for alterations of or structural or other additions to the ground.
- (2) An application for approval of alterations or additions to the ground must be accompanied by 3 copies of the plans and specifications for the ground, drawn to scale and showing the proposed alterations or additions in contrasting colours to the existing facilities.
- (3) The licensee is guilty of an offence if any alterations or additions are made to the ground:
 - (a) without the approval of the Minister, or
 - (b) otherwise than in accordance with any conditions imposed on any such approval.

Maximum penalty: 5 penalty units.

- (4) It is a condition of the Minister's approval of any alterations or additions to the ground that, before starting the alterations or additions, the licensee must ensure that a copy of any development consent required to be obtained in respect of the alterations or additions is sent to the Chief Executive if so required.
- (5) A person is not liable to prosecution under subclause (3) in respect of alterations or additions if the person has been prosecuted under the *Environmental Planning and Assessment Act 1979* for:
 - (a) carrying out those alterations or additions without development consent, or
 - (b) carrying out the alterations or additions otherwise than in accordance with a condition of development consent and the condition of the Minister's approval in respect of which the prosecution would arise is substantially to the same effect as that condition of development consent.

Note. This clause does not affect any obligation the licensee has under any other law to obtain the approvals referred to in subclause (4) and to carry out the alterations or additions in accordance with those approvals.

13 Broadcasting structures

Without limiting clause 12, the promoter of a race meeting must not erect, or permit or direct any other person to erect, a temporary structure on the ground at which the meeting is to be held for the purpose of broadcasting that meeting by radio or television, unless the temporary structure is erected on a site specified in a written approval given by the officer-in-charge of the police station nearest to that ground.

Maximum penalty: 5 penalty units.

14 Provision of effective communication system

The licensee of a ground must, unless exempted from this requirement by the Minister, ensure that the ground is equipped with a communication system capable of enabling the official in charge of starting to be informed verbally or by code or signal that the track is clear and that it is safe for a race or another event to start.

Maximum penalty: 5 penalty units.

15 Pit area

- (1) The licensee of a ground may set aside as a pit area any part of the ground for use by the competing drivers or riders of motor vehicles and their crews for the carrying out

of repairs to, or the fuelling of, motor vehicles immediately before and during a motor vehicle race.

- (2) A pit area of a ground must not be located within the area bounded by the track, unless the Minister otherwise directs under this clause.
- (3) If the Minister is satisfied in a particular case that the location of a pit area is not appropriate, the Minister may, by notice in writing to the licensee of the ground, direct that the pit area be located in another part of the ground (whether or not within the area bounded by the track).
- (4) A person must not enter a pit area, or permit or direct another person to enter a pit area, during a race meeting unless the person entering the pit area:
 - (a) is authorised in writing to do so by the Minister, the licensee or the promoter of the meeting, or
 - (b) is an official, a competitor or a member of the crew of a competing vehicle, and, while in the pit area, the person clearly displays, by means of a badge or otherwise, evidence of the person's identity and of the person's authority to enter the pit area.

Maximum penalty (subclause (4)): 5 penalty units.

16 Paddock area

- (1) The licensee of a ground may set aside as a paddock area any part of the ground for use:
 - (a) for the storage of motor vehicles used or to be used in motor vehicle racing at the ground, and
 - (b) for the repairing and refuelling of those vehicles.
- (2) A paddock area of a ground must not be located within the area bounded by the track, unless the Minister otherwise directs under this clause.
- (3) If the Minister is satisfied in a particular case that the location of a paddock area is not appropriate, the Minister may, by notice in writing to the licensee of the ground, direct that the paddock area be located in another part of the ground (whether or not within the area bounded by the track).
- (4) A person must not enter a paddock area, or permit or direct another person to enter a paddock area, during a race meeting unless the person entering the paddock area:
 - (a) is authorised in writing to do so by the Minister, the licensee or the promoter of the meeting, or
 - (b) is an official, a competitor or a member of the crew of a competing vehicle.

Maximum penalty (subclause (4)): 5 penalty units.

17 Fuelling

A person must not fuel a vehicle in any part of a ground other than a pit or paddock area.

Maximum penalty: 5 penalty units.

18 Media personnel and photographers

Any person representing a television station, radio station, newspaper, periodical or other publication (including any reporter, photographer and crew member) must,

when entering any part of a ground (other than a spectator area) during a race meeting, clearly display:

- (a) some form of identification issued by the management of the station or publication that the person represents, and
- (b) some form of evidence that the person has been authorised to enter the area by the licensee or the promoter of the meeting.

Maximum penalty: 5 penalty units.

19 Restricted access to unauthorised areas

- (1) The Minister may, by notice in writing to the licensee of a ground, designate an area of a ground as an unauthorised area.
- (2) A person (other than an official for the meeting) must not, during a race meeting, enter any unauthorised area, except in circumstances previously approved in writing by the Minister.

Maximum penalty: 5 penalty units.

20 Inspection of licensed ground

- (1) A police officer on duty, or any other person authorised by the Minister to inspect a ground, may carry out an inspection of a licensed ground for the purpose of ascertaining whether the licensee is complying with this Regulation and the conditions of the licence for the ground.
- (2) A person must not hinder, obstruct or wilfully delay any police officer on duty, or other person authorised to inspect a ground by the Minister, who is attempting to carry out an inspection under this clause.

Maximum penalty: 5 penalty units.

Part 4 Race meetings

21 Control of persons attending a race meeting

- (1) An official for a race meeting or a police officer on duty may direct a person who contravenes a provision of this Regulation or trespasses or causes inconvenience on any part of a ground to leave the ground or part of the ground.
- (2) A person must not remain in any part of a ground after having been directed under subclause (1) to leave that part of the ground.
Maximum penalty: 5 penalty units.
- (3) Any person found in a part of a ground in which he or she is not permitted to be may be removed from that part of the ground by any police officer on duty.

22 Commencement of races or events

The licensee of a ground, an official for a race meeting or the promoter of a race meeting must not permit or direct any practice, race or other event to commence if the licensee, official or promoter is aware that:

- (a) the track is not clear and safe, or
- (b) to do so would subject any person to imminent or undue danger.

Maximum penalty: 5 penalty units.

23 Safety fence gates not to be opened during races

- (1) A person must not open or unfasten a gate in any safety fence at a ground while any motor vehicle is being driven in any practice, race or other event at the ground.
Maximum penalty: 5 penalty units.
- (2) The licensee of a ground, an official for a race meeting or the promoter of a race meeting must not permit or direct a gate in any safety fence at a ground to be opened or unfastened while any motor vehicle is being driven in any practice, race or other event at the ground.
Maximum penalty: 5 penalty units.
- (3) Nothing in this clause prevents an ambulance, fire engine, tow-truck or other emergency vehicle from entering and using a track to attend an accident, breakdown or other similar incident.

24 Cessation of races or events

- (1) If the senior police officer on duty at a race meeting is satisfied that any person is in imminent or undue danger if further racing or events are carried on, the officer may direct the clerk of the course or any other person in charge of the conduct of the meeting to cease immediately any racing or event and not to continue until the danger has been removed.
- (2) A person to whom a direction is given under subclause (1) must comply with the direction.
Maximum penalty: 5 penalty units.
- (3) A licensee of a ground, an official for a race meeting or a promoter of a race meeting must not obstruct or delay the clerk of the course or another person attempting to comply with a direction given under subclause (1).
Maximum penalty: 5 penalty units.

25 Conveyance of passengers

- (1) Except where previously approved by the Minister in writing:
- (a) the driver or rider of any motor vehicle competing in motor vehicle racing must not permit any other person to accompany him or her in or on the vehicle during the course of any race at a race meeting, and
 - (b) a person must not accompany the driver or the rider of a motor vehicle in or on the vehicle during the course of any race at a race meeting.

Maximum penalty: 5 penalty units.

- (2) Subclause (1) does not apply in respect of:
- (a) a person accompanying the rider of a motor vehicle as a passenger in any race for motorcycles fitted with side cars, or
 - (b) a person accompanying the driver of a motor vehicle as a navigator or instructor.

26 Competitor to comply with directions

- (1) A police officer on duty may direct a person, in the interests of public or competitor safety, not to race or compete in any event at a race meeting.
- (2) A person to whom a direction is given under this clause must comply with the direction.

Maximum penalty: 5 penalty units.

Part 5 Miscellaneous

27 Advisory committees

- (1) For the purposes of section 16 (2) (a) of the Act, the following organisations are prescribed:
 - (a) Australian National Drag Racing Association Ltd,
 - (b) Confederation of Australian Motor Sport Ltd,
 - (c) Karting (NSW) Incorporated,
 - (d) Motorcycling NSW Ltd,
 - (e) National Association of Speedway Racing Pty Ltd.
- (2) The members of the organisations referred to in subclause (1) are to be nominated in writing by the organisation on the request of the Minister, in such manner and number as is specified in that request.

28 Savings

Any act, matter or thing that, immediately before the repeal of the *Motor Vehicle Sports (Public Safety) Regulation 2010*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Prescribed licence conditions

(Clause 7)

1 Insurance required

Before the ground is used for motor vehicle racing or practice, the licensee is to provide the Chief Executive with evidence satisfactory to the Chief Executive that public risk insurance cover has been effected in respect of all claims arising out of each meeting at the ground. The State of New South Wales (represented by the Minister) must be noted on the insurance policy as an insured or interested party for its relevant rights and interests.

2 Insurance to be maintained

The licensee must maintain the insurance cover during the currency of the licence and notify the Chief Executive immediately on receipt of any advice from the insurer of intention to cancel the policy.

3 Notice of meeting to police and ambulance service

The licensee must, at least 14 days before the holding of a race meeting at the ground, give notice in writing of the intended meeting to each of the following:

- (a) the officer-in-charge of the police station nearest to the ground,
- (b) the officer-in-charge of the ambulance station nearest to the ground.

4 Fire-fighting appliances

The licensee must provide and maintain serviceable fire-fighting appliances as required by the Minister for the type of motor vehicle racing conducted at the ground.

5 Maintenance of safety fences

The licensee must maintain all fences and other safety devices constructed at the ground in such condition as is necessary to ensure that they provide the protection they are designed to provide.

6 Directions for additional safety measures

The licensee must comply with any written direction of the Minister served on the licensee requiring the construction of a fence or any other safety device at the ground to such specifications as are stated in the direction.

7 Location of pit area or paddock area

The licensee must comply with any written direction of the Minister served on the licensee requiring that the location of a pit area or paddock area be changed.

8 Plan of ground to be displayed

The licensee must keep the licence for the ground displayed in a position accessible to all patrons together with a copy of the plans of the ground showing the location of the various facilities at the ground, including any pit and paddock areas and any unauthorised areas.

9 Toilet facilities

The licensee must provide and maintain sanitary accommodation for both sexes in such quantity and at such a standard as are satisfactory to the local council.

10 Inspection of ground

The licensee must ensure that access is available to all parts of the ground:

- (a) to any police officer on duty, and
- (b) to any person authorised to inspect the ground by the Minister, who desires to carry out an inspection for the purpose of ascertaining whether the Act, the regulations and the conditions of the licence are being complied with.

11 Reporting of serious accidents

If, during a race meeting at the ground, a person dies or is injured in a way that requires medical attention, the licensee must give an accident report (in a form approved by the Chief Executive) to the Chief Executive and the officer-in-charge of the nearest police station as soon as is reasonably practicable.

12 Notification of change in ownership of ground

The licensee of a ground must notify the Chief Executive immediately of any change in the person or persons who have the right to immediate possession of the land on which the ground is situated.

13 Notification of alterations to configuration of track

The licensee must obtain the prior approval of the Chief Executive for any alteration to the configuration of the racing track at the ground.