



New South Wales

Road Transport Legislation Amendment (Release of Stored Photographs) Regulation 2015

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, Maritime and Freight

Explanatory note

The objects of this Regulation are:

- (a) to provide that all photographs to which Part 3.5 of the *Road Transport Act 2013* (which provides for the protection of stored photographs, including photographs taken or provided in relation to applications for the issue or renewal of certain licences) applies can be released by Roads and Maritime Services to the New South Wales Crime Commission or the Australian Security Intelligence Organisation (rather than only driver licence photographs, as at present), and
- (b) to provide that a photograph taken for the purposes of the issue of a mobility parking scheme authority may be released, in accordance with the rules in Part 3.5 of the *Road Transport Act 2013*, to:
 - (i) the NSW Police Force and certain other bodies referred to in section 57 of the Act, and
 - (ii) the bodies referred to in clause 107 of the *Road Transport (Driver Licensing) Regulation 2008* (as amended by this Regulation), namely the New South Wales Crime Commission, the Australian Security Intelligence Organisation and the Identity Security Strike Team (Sydney), hosted by the Australian Federal Police.

This Regulation is made under the *Road Transport Act 2013*, including sections 23 (the general power to make statutory rules) and 57 (1) (k) (relating to the release of photographs) and Schedule 1.

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1 Name of Regulation

This Regulation is the *Road Transport Legislation Amendment (Release of Stored Photographs) Regulation 2015*.

2 Commencement

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

Schedule 1 Amendment of Road Transport (Driver Licensing) Regulation 2008

[1] Clause 107

Omit the clause. Insert instead:

107 Release of certain photographs

- (1) For the purposes of section 57 (1) (k) of the Act, a photograph to which Part 3.5 of the Act applies, or any photographic image or other matter contained in any database of such photographs, may be released by the Authority:
 - (a) to the New South Wales Crime Commission for the purposes of the investigation or prosecution of a relevant criminal activity, or a relevant offence (within the meaning of the *Crime Commission Act 2012*), or
 - (b) to the New South Wales Crime Commission for the purposes of the investigation of a terrorist act, or a threat of a terrorist act (within the meaning of the *Terrorism (Police Powers) Act 2002*), or
 - (c) to the Australian Security Intelligence Organisation for the purposes of the investigation of a terrorism offence (within the meaning of the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth), or
 - (d) to the inter-agency team known as the Identity Security Strike Team (Sydney), being a team hosted by the Australian Federal Police and charged with investigating serious identity-related crime.
- (2) Any release of a photograph, photographic image or other matter under this clause must be in accordance with any protocol approved by the Privacy Commissioner, as required by section 57 (2) of the Act.

Note 1. The Authority is authorised to release to the NSW Police Force any photographs to which Part 3.5 of the Act applies and any photographic image or other matter contained in any database of such photographs (see section 57 (1) (a) of the Act). Such release must be in accordance with any protocol approved by the Privacy Commissioner.

Note 2. The following legislation provides that any photograph taken for the purposes of that legislation may be released for any purpose for which a photograph to which Part 3.5 of the *Road Transport Act 2013* applies may be released by the Authority:

- (a) section 19 (1) (g) of the *Photo Card Act 2005* (which relates to photographs taken or provided in relation to applications for the issue of Photo Cards),
- (b) section 80I (1) (f) of the *Licensing and Registration (Uniform Procedures) Act 2002* (which relates to photographs taken or provided in relation to applications for the issue of licences or registrations issued under the uniform licensing procedure scheme),
- (c) clause 109 of the *Road Transport (General) Regulation 2013* (which relates to photographs taken for the purposes of applications for the issue of mobility parking scheme authorities).

As a result, photographs to which that legislation relates may be released for the purposes prescribed by this clause.

[2] Clause 108A Keeping and use of photographs: use of facial recognition technology

Omit “RTA” from the note. Insert instead “Authority”.

Schedule 2 Amendment of Road Transport (General) Regulation 2013

[1] Clause 109 Release of photographs prohibited

Insert at the end of clause 109 (1) (d):

- (d1) for any purpose for which a photograph to which Part 3.5 (Protection of stored photographs) of the Act applies may be released by the Authority under that Part, or

Note. A photograph to which Part 3.5 of the Act applies may be released:

- (a) for a purpose specified in section 57 (1) of the Act, or
- (b) for a purpose specified in clause 107 of the *Road Transport (Driver Licensing) Regulation 2008*.

[2] Clause 109 (2)

Omit “subclause (1) (a)–(d)”. Insert instead “subclause (1) (a)–(d1)”.