



New South Wales

Road Transport Legislation Amendment (Visiting Drivers) Regulation 2023

under the

Road Transport Act 2013

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

JOHN GRAHAM, MLC
Minister for Roads

Explanatory note

The objects of this regulation are to—

- (a) amend the *Road Transport (Driver Licensing) Regulation 2017* to provide for the events that cause visiting drivers who hold temporary visas under the *Migration Act 1958* of the Commonwealth to be permanently ineligible to be exempt from driver licensing requirements, and
- (b) amend the *Road Transport (General) Regulation 2021* to enable penalty notices to be issued for certain kinds of offences under the *Road Transport Act 2013* (***the Act***), section 53(1) where the person driving a motor vehicle without being licensed for that purpose is a visiting driver.

This regulation is made under the Act, including sections 23, the general statutory rule-making power, 53 and 195.

Road Transport Legislation Amendment (Visiting Drivers) Regulation 2023

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Road Transport Act 2013

1 Name of regulation

This regulation is the *Road Transport Legislation Amendment (Visiting Drivers) Regulation 2023*.

2 Commencement

This regulation commences as follows—

- (a) for Schedule 1—on the day the regulation is published on the NSW legislation website,
- (b) otherwise—on 19 November 2023.

Schedule 1 Amendment of Road Transport (Driver Licensing) Regulation 2017

[1] Clause 4 Definitions

Insert in alphabetical order in clause 4(1)—

NSW driver licence means a driver licence within the meaning of the Act.

[2] Clauses 4(1), definition of “temporary visiting driver” and 95A, definition of “temporary visiting driver”

Omit the definition wherever occurring.

[3] Clause 95A, heading

Omit the heading. Insert instead—

95A Definition

[4] Clause 96 Interstate and international visitors

Omit clause 96(9A).

[5] Clause 96AA

Omit the clause. Insert instead—

96AA Temporary visiting drivers—permanent loss of exemption

- (1) A temporary visiting driver is permanently ineligible to be exempt under clause 96 from NSW driver licence holding requirements if the driver—
 - (a) resides in this State for a continuous period of 6 months after the driver is granted a temporary visa under the *Migration Act 1958* of the Commonwealth, or
 - (b) is convicted of—
 - (i) an alcohol or other drug related driving offence, or
 - (ii) an offence referred to in the Act, section 224(1), or
 - (c) is disqualified from driving a motor vehicle on a road or road related area in Australia or another country.
- (2) Despite clause 96(7)(a), a temporary visiting driver to whom clause 96(4)(n) applies is permanently ineligible to be exempt under clause 96 from NSW driver licence holding requirements.
- (3) Despite clause 96(7A), a temporary visiting driver to whom clause 96(4)(o) applies is permanently ineligible to be exempt under clause 96 from NSW driver licence holding requirements.
- (4) The notice required to be given under clause 96(9) to a temporary visiting driver to whom clause 96(4)(n) or (o) applies must state that the temporary visiting driver is permanently ineligible to be exempt from NSW driver licence holding requirements.
- (5) For this clause, the following savings and transitional provisions have effect—
 - (a) subclause (1)(a) does not apply to a temporary visiting driver who began to reside in this State before the commencement day,
 - (b) subclause (1)(b) and (c) do not apply to a conviction or disqualification that occurred before the commencement day,

- (c) subclause (2) does not apply to a temporary visiting driver unless at least 1 of the demerit points is incurred on or after the commencement day,
 - (d) subclause (3) does not apply to an offence alleged to have been committed before the commencement day.
- (6) In this clause—
- commencement day*** means the day on which this clause is substituted by the *Road Transport Legislation Amendment (Visiting Drivers) Regulation 2023*.
- temporary visiting driver*** means a visiting driver who—
- (a) is referred to in clause 96(1)(b) or (c), and
 - (b) holds a temporary visa under the *Migration Act 1958* of the Commonwealth.

[6] Clause 131 Transitional—Road Transport (Driver Licensing) Amendment (Visiting Drivers) Regulation 2022

Omit the clause.

Schedule 2 Amendment of Road Transport (General) Regulation 2021

[1] Section 132 Definitions

Insert in alphabetical order in section 132(1)—

authorised visiting driver has the same meaning as in the Act, Part 7.4, Division 4.

relevant driver licence means—

- (a) a relevant Australian driver licence, or
- (b) a New Zealand driver licence or learner licence, or
- (c) a foreign driver licence.

visiting driver privileges means an authority an authorised visiting driver has to drive in this jurisdiction without a driver licence.

[2] Schedule 5 Penalty notice offences

Omit the matter relating to section 53(1)(a) and (b) from the *Road Transport Act 2013* table.

Insert instead—

Section 53(1)—

- (a) if the driver holds a relevant driver licence that does not authorise the driver to drive the motor vehicle, being a motor vehicle of a kind that may be driven by a person who holds a driver licence of class R, class C, class LR or class MR, or an equivalent relevant driver licence—

(i)	for a first offence within the last 5 years	Class 1, 2, 14	Level 7
(ii)	for a second or subsequent offence within the last 5 years	Class 1, 2, 14	Level 9
- (b) if the driver holds a relevant driver licence that does not authorise the driver to drive the motor vehicle, being a motor vehicle of a kind that may be driven by a person who holds a driver licence of class HR, class HC or class MC, or an equivalent relevant driver licence—

(i)	for a first offence within the last 5 years	Class 1, 2, 14	Level 8
(ii)	for a second or subsequent offence within the last 5 years	Class 1, 2, 14	Level 11
- (c) if the driver's visiting driver privileges had been withdrawn at the time of the offence—

(i)	for a first offence within the last 5 years	Class 1, 2, 14	Level 7
(ii)	for a second or subsequent offence within the last 5 years	Class 1, 2, 14	Level 9
- (d) if the driver held a relevant driver licence that expired within the last 2 years—

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| (i) | for a first offence within the last 5 years | Class 1, 2, 14 | Level 7 |
| (ii) | for a second or subsequent offence within the last 5 years | Class 1, 2, 14 | Level 9 |
| (e) | if the driver held a relevant driver licence that expired more than 2 years ago— | | |
| (i) | for a first offence within the last 5 years | Class 1, 2, 14 | Level 8 |
| (ii) | for a second or subsequent offence within the last 5 years | Class 1, 2, 14 | Level 11 |
| (f) | if the driver has never been licensed, within the meaning of section 53(5), for a first offence only | Class 1, 2, 14 | Level 9 |