

Intoxicated Persons (Sobering Up Centres Trial) Regulation 2013

[2013-225]



New South Wales

Status Information

Currency of version

Historical version for 1 December 2013 to 19 December 2013 (accessed 28 June 2024 at 15:38)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

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File last modified 1 December 2013

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New South Wales

Contents

Part 1 Preliminary	4
1 Name of Regulation	4
2 Commencement	4
3 Definitions	4
3A Catchment areas	4
3B Health assessment officers	4
Part 2 Accreditation of sobering up centres	4
4 Applications for accreditation of sobering up centres.....	5
5 Conditions of accreditation of sobering up centres.....	5
6 Grounds for suspension or cancellation of accreditation: section 23 (2) (c)	6
Part 3 Detention and transport of intoxicated persons to sobering up centres	6
7 Admission of persons to sobering up centres	6
8 Cost recovery charge.....	7
9 Enforcement of unpaid cost recovery charge	7
10 No court fee for application to Local Court to waive or reduce cost recovery charge.....	7
Part 4 Miscellaneous	7
11 Exchange of information: section 26	7
12 Records.....	8

Schedule 1 Catchment areas..... 11

**Schedule 2 Modification of application of Part 4 of Fines Act 1996 No 99
to unpaid cost recovery charges**
..... 13

Intoxicated Persons (Sobering Up Centres Trial) Regulation 2013



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Intoxicated Persons (Sobering Up Centres Trial) Regulation 2013*.

2 Commencement

This Regulation commences on 24 May 2013 and is required to be published on the NSW legislation website.

3 Definitions

(1) In this Regulation:

the Act means the *Intoxicated Persons (Sobering Up Centres Trial) Act 2013*.

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

3A Catchment areas

A geographical area identified in a map in Schedule 1 for an authorised sobering up centre is specified as the catchment area for that sobering up centre.

3B Health assessment officers

The following classes of first aid, drug and alcohol treatment or health skills or qualifications are prescribed for the purposes of paragraph (d) of the definition of **health assessment officer** in section 4 of the Act:

- (a) a current senior first aid certificate under the Australian Qualifications Framework,
- (b) a current Certificate IV in Alcohol and Other Drugs Work awarded by the TAFE Commission.

Part 2 Accreditation of sobering up centres

4 Applications for accreditation of sobering up centres

An application for accreditation to operate a sobering up centre must be accompanied by the following information or particulars:

- (a) the name and business address of the applicant,
- (b) if the applicant is a corporation, the names of all directors and officers of the applicant,
- (c) the name and qualifications of the proposed health assessment officer (if known) for the sobering up centre,
- (d) if the applicant is a corporation, evidence of the incorporation of the applicant,
- (e) evidence of any trading names of the applicant,
- (f) the Australian Business Number (ABN) or Australian Company Number (ACN) (if any) of the applicant,
- (g) evidence of accreditation with the Australian Council on Healthcare Standards current EQuIP Standards,
- (h) evidence that the applicant holds appropriate public and professional indemnity insurance,
- (i) if the applicant is a corporation, evidence that the application has been approved by the governing body or the authorised office holders of the applicant,
- (j) certified copies of the most recent audited financial statements of the applicant and all financial statements for the past 12 months.

5 Conditions of accreditation of sobering up centres

An accreditation of a sobering up centre is subject to the following conditions:

- (a) the accredited person and the staff of the accredited person must comply with the Act and this Regulation and any other law relevant to the operation of a sobering up centre,
- (b) the accredited person must comply with the terms and conditions of any agreement entered into between the accredited person and the State of New South Wales in relation to the provision of funding by the State of New South Wales to assist the accredited person to operate a sobering up centre,
- (c) the accredited person must maintain accreditation with the Australian Council on Healthcare Standards current EQuIP Standards,
- (d) the accredited person must, before the first day of operation of the sobering up

centre, make publicly available (and keep publicly available during the duration of the accreditation) a plan of management for the centre, which is to include a description of the processes proposed to be followed by the accredited person in order to care for intoxicated persons who come to the centre,

- (e) the accredited person, on becoming aware of the existence of a material matter that may affect the accredited person's capacity to operate the sobering up centre, must notify the Director-General in writing within 24 hours of becoming aware of that matter,
- (f) the accredited person must, before commencing to operate the sobering up centre, consult with the relevant council and the Commissioner of Police and provide a report of the outcome of that consultation to the Director-General,
- (g) the accredited person must, during the operation of the sobering up centre, regularly consult with the relevant council and the Commissioner of Police,
- (h) the accredited person must comply with all reasonable requests by the Director-General for information concerning the operation of the sobering up centre,
- (i) the accredited person must notify the Director-General in writing within 24 hours of the occurrence at the sobering up centre of any of the following:
 - (i) any death or serious accident requiring hospitalization,
 - (ii) any alleged sexual assault or physical assault or serious injury,
 - (iii) any serious neglect or ill-treatment,
 - (iv) any theft.

6 Grounds for suspension or cancellation of accreditation: section 23 (2) (c)

The Director-General may suspend or cancel an accreditation on the grounds that the accredited person has contravened any provision of the standard operating procedures of the accredited person's sobering up centre as agreed between the Director-General and the accredited person and in force at the time of the contravention.

Part 3 Detention and transport of intoxicated persons to sobering up centres

7 Admission of persons to sobering up centres

As soon as is practicable after arriving at an authorised sobering up centre, an intoxicated person must be informed that:

- (a) the person may contact a responsible person, and
- (b) the person is entitled to food and drink at the centre.

8 Cost recovery charge

- (1) A person who has been admitted to the Sydney City sobering up centre must pay the following cost recovery charge:
 - (a) for a first admission to that centre—\$200,
 - (b) for a second admission to that centre—\$400,
 - (c) for a third admission to that centre—\$600,
 - (d) for a fourth or subsequent admission to that centre—\$800.
- (2) A person who has been admitted to the Sydney City sobering up centre must:
 - (a) be given a notice setting out the cost recovery charge that the person is required to pay under the Act, and
 - (b) pay the cost recovery charge to the Commissioner of Fines Administration in the manner set out in the notice within 28 days of receipt of the notice.

9 Enforcement of unpaid cost recovery charge

- (1) Part 4 of the *Fines Act 1996* applies to the enforcement of such a cost recovery charge with such modifications as are specified in Schedule 2.

Note—

Section 18 of the Act provides that Divisions 3 (Driver licence or vehicle registration suspension or cancellation) and 6 (Imprisonment) of Part 4 of the *Fines Act 1996* do not apply in relation to the enforcement of a cost recovery charge.

- (2) A person is not required to pay any amount as enforcement costs under the *Fines Act 1996* in relation to a cost recovery charge.

10 No court fee for application to Local Court to waive or reduce cost recovery charge

A person is not required to pay any court fee in relation to any application to the Local Court made under section 19 of the Act.

Part 4 Miscellaneous

11 Exchange of information: section 26

- (1) Closed circuit television footage (in any format) is prescribed as information for the purposes of section 26 (2) (b) of the Act, but only if the sharing or exchanging of the closed circuit television footage is reasonably necessary for the following:
 - (a) the exercise of functions under the Act or this Regulation,
 - (b) the evaluation of the operation and effectiveness of an authorised sobering up centre.

- (2) The following persons or bodies are prescribed as relevant agencies for the purposes of section 26 (5) (g) of the Act:
- (a) the Department of Attorney General and Justice,
 - (b) the Ambulance Service of NSW,
 - (c) the Commissioner of Fines Administration.

12 Records

- (1) The Commissioner of Police (in relation to the Sydney City sobering up centre) and the accredited person (in relation to the person's accredited sobering up centre) are to ensure that records are made relating to the following matters:
- (a) details of any incidents or injuries occurring in the centre (whether to staff, persons admitted to the centre or other persons at the centre),
 - (b) in relation to an accredited sobering up centre—the qualifications of members of staff engaged or employed to operate the centre or to care for or detain intoxicated persons at the centre.
- (2) A police officer who detains an intoxicated person under Part 2 of the Act and takes the person to an authorised sobering up centre is to make a record, containing the following particulars in relation to the detention of the intoxicated person:
- (a) the name and rank of the police officer,
 - (b) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
 - (c) the grounds on which the person is detained,
 - (d) the date and time when the following occur:
 - (i) the person's detention commences,
 - (ii) the person is brought to the authorised sobering up centre,
 - (e) the name of the authorised sobering up centre,
 - (f) if the person is taken to the Sydney City sobering up centre, the name and rank of the officer into whose custody the person is delivered,
 - (g) if the person is taken to an accredited sobering up centre, the name of the person into whose custody the person is delivered,
 - (h) details of any penalty notice issued to the person by the police officer.
- (3) The person in charge of the Sydney City sobering up centre (***the responsible***

detention officer), or a person authorised to do so by the responsible detention officer, is to make a record, containing the following particulars in relation to the detention of an intoxicated person at that centre:

- (a) the name and rank of the responsible detention officer,
- (b) the name and rank of the police officer who brings the intoxicated person to the centre,
- (c) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
- (d) the grounds on which the person is detained,
- (e) the date and time when the following occur:
 - (i) the intoxicated person is brought to the centre,
 - (ii) the intoxicated person is released from detention,
- (f) details of any arrangement by a detention officer at the centre for medical treatment or medication to be administered to the intoxicated person and the time at which the arrangement is made,
- (g) details of any cost recovery charge notice issued to the person (including the amount of the charge),
- (h) details of any penalty notice issued to the person while the person is at the centre.

(4) The person in charge of an accredited sobering up centre (**the responsible care officer**), or a person authorised to do so by the responsible care officer, is to make a record (in a form approved by the Director-General), containing the following particulars in relation to the care of an intoxicated person at that centre:

- (a) the name of the responsible care officer,
- (b) the name and rank of the police officer who brings the intoxicated person to the centre,
- (c) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
- (d) the grounds on which the person is cared for,
- (e) the date and time when the following occur:
 - (i) the intoxicated person is brought to the centre,
 - (ii) the intoxicated person departs from detention,

- (f) details of any arrangement for medical treatment or medication to be administered to the intoxicated person and the time at which the arrangement is made.
- (5) A person who searches an intoxicated person and the person's belongings under section 11 (5) of the Act is to make a record, containing the following particulars:
 - (a) the name and rank (if any) of the person who carries out the search (***the searching detention officer***),
 - (b) the name and date of birth of the intoxicated person (if they can be ascertained after making reasonable inquiries),
 - (c) a description of any personal belongings of the intoxicated person of which the searching detention officer has taken possession as a result of a search of the intoxicated person.
- (6) Nothing in this clause requires a detention officer to make a record, in relation to the detention of an intoxicated person, containing any particular that is contained in a record made in relation to the same detention of the intoxicated person by a detention officer of the same kind.
- (7) A record required to be made under this clause is to be kept for a period of 3 years after it is made.
- (8) The following persons (or a person authorised by one of the following persons) may, at any reasonable time, inspect a record required to be made under this clause:
 - (a) the Commissioner of Police,
 - (b) the Director-General.
- (9) A person who has at any time been detained under the Act (or a person authorised by such a person) may, at any reasonable time, inspect a copy of a record required to be made under this clause that relates to the person. However, the name of the responsible care officer or any other member of staff engaged or employed at an accredited sobering up centre is to be obscured in or removed from any such copy of a record.
- (10) In this clause:
detention officer means a responsible detention officer and a searching detention officer.

Schedule 1 Catchment areas

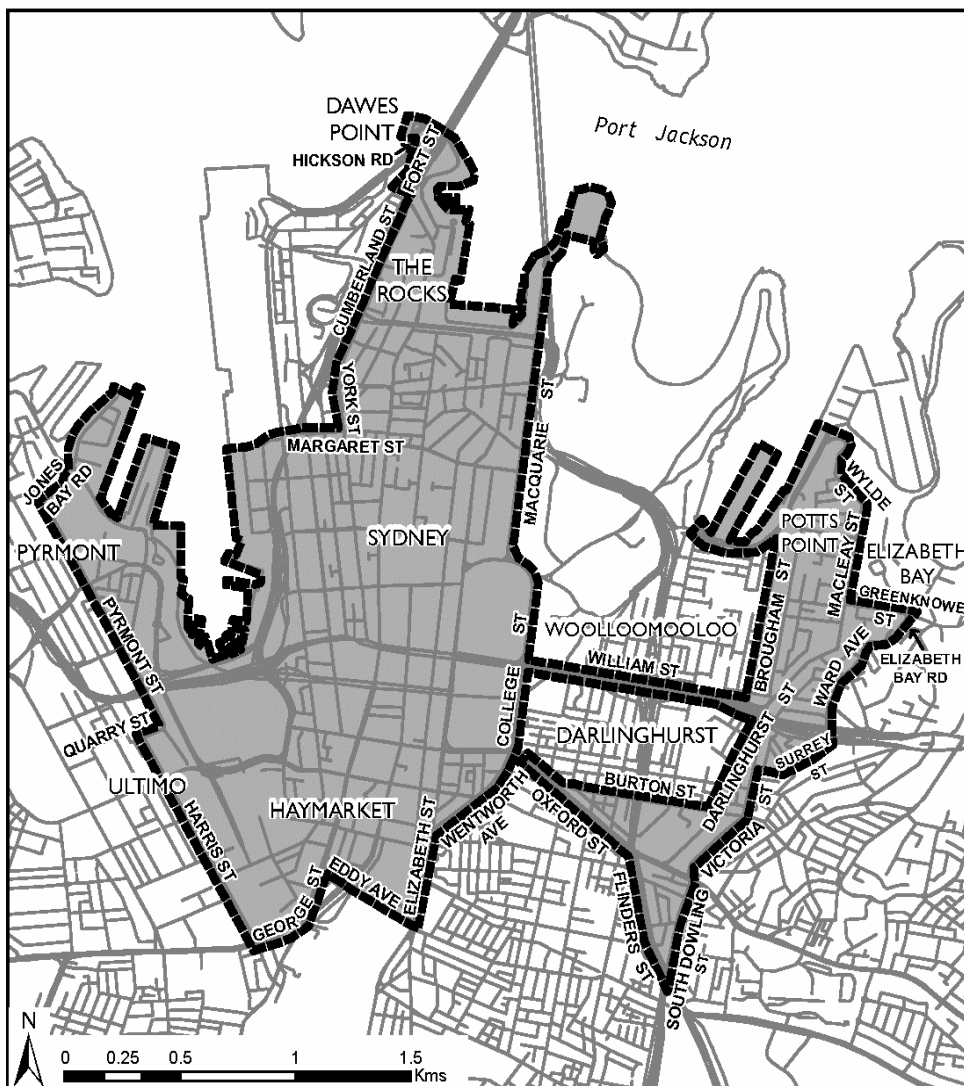
(Clause 3A)

Part 1 Interpretation

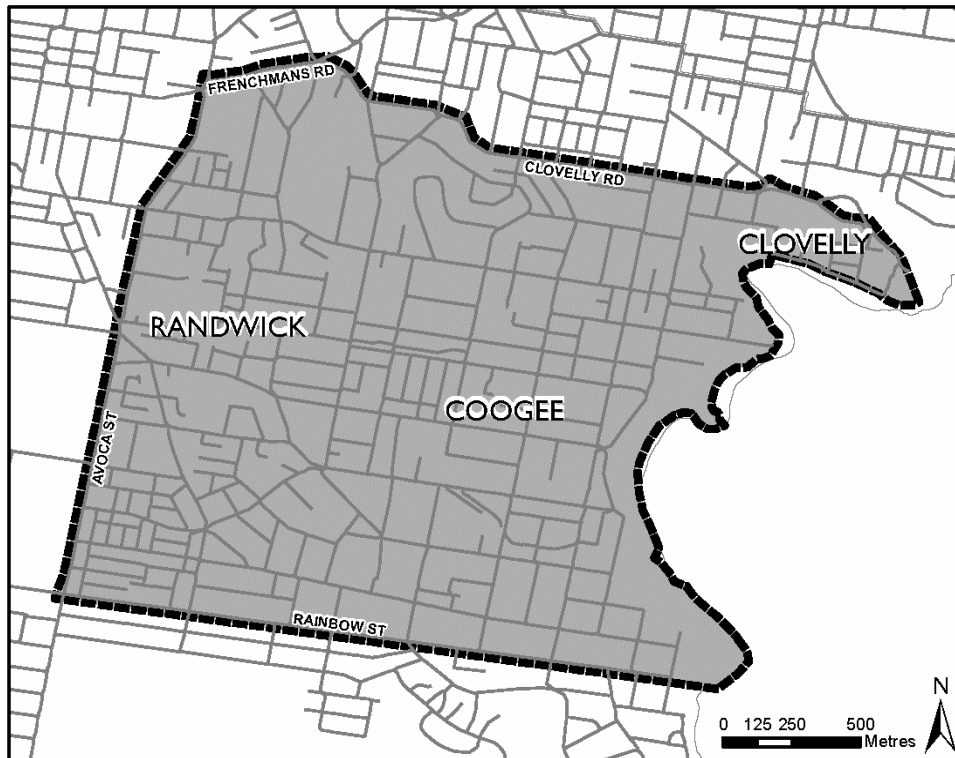
1 Inclusion of roads

If the boundary of any area identified in a map in this Schedule runs along a road, then the whole road (including the footpaths on both sides of the road) is taken to be included within the identified area.

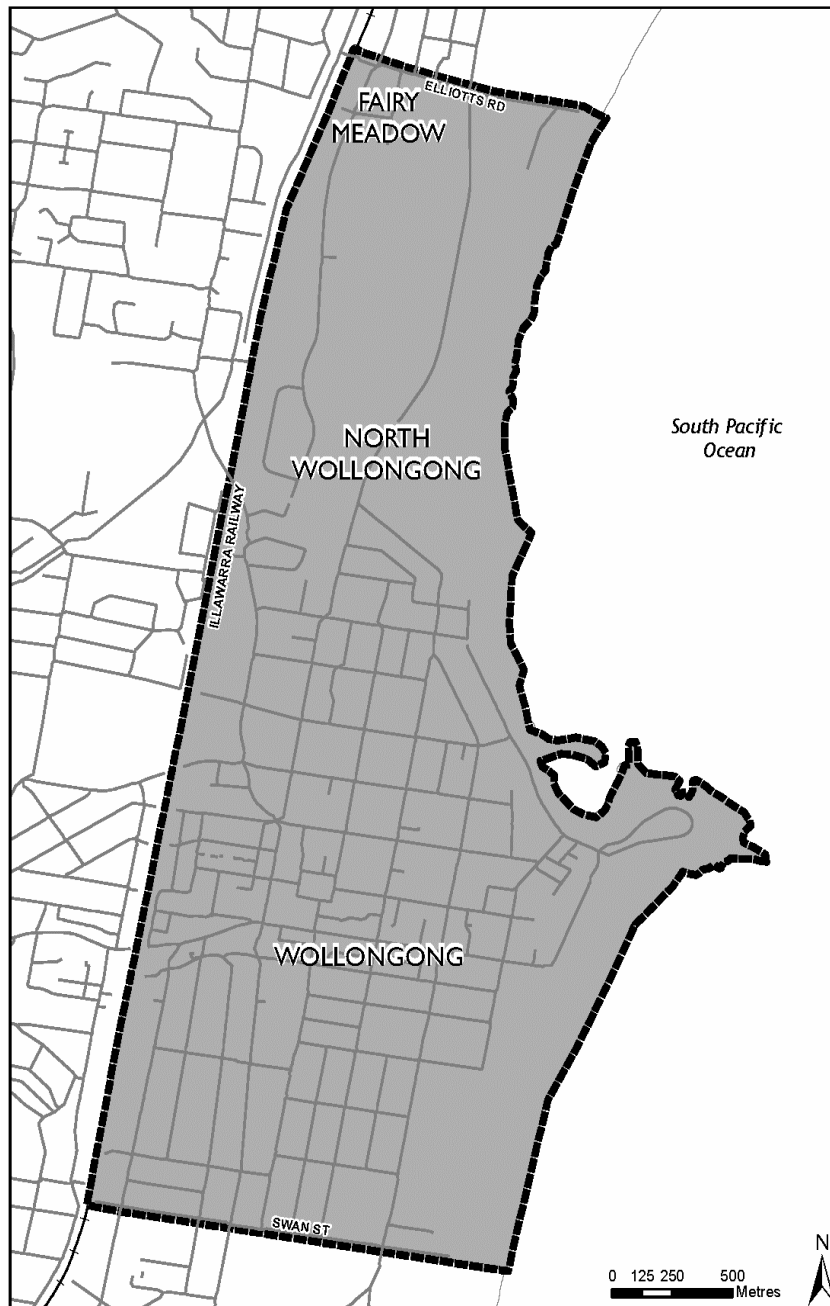
Part 2 Sydney City sobering up centre catchment area



Part 3 Coogee sobering up centre catchment area



Part 4 Wollongong sobering up centre catchment area



Schedule 2 Modification of application of Part 4 of **Fines Act 1996 No 99** to unpaid cost recovery charges

(clause 9 (1))

[1] Section 58 Summary of enforcement procedure

Omit section 58 (1) (b) (**Driver licence or vehicle registration suspension or cancellation**).

[2] Section 58 (1) (c)

Omit “If the fine defaulter does not have a driver licence or a registered vehicle or the fine remains unpaid after 6 months,”.

Insert instead “If the fine is not paid within the period specified,”.

[3] Section 58 (1) (e)

Omit the paragraph.

[4] Section 60 What notice must say

Omit “and enforcement costs” from section 60 (1) (b).

[5] Section 60 (1) (c)

Omit “any driver licence or vehicle registration suspended or cancelled or”.

[6] Section 60 (1) (d)

Omit the paragraph.

[7] Section 60 (1A)

Omit the subsection.

[8] Section 71 When enforcement action taken under this Division

Omit section 71 (1). Insert instead:

- (1) Enforcement action is to be taken against a fine defaulter under this Division if:
 - (a) the fine defaulter has not paid a fine as required by the notice of the fine enforcement order served on the fine defaulter, or
 - (b) the Commissioner of Fines Administration has extended the time for payment of a fine, and the fine defaulter has not paid the fine by the extended due date, or
 - (c) the Commissioner of Fines Administration has allowed the payment of a fine by instalments, and the fine defaulter has not paid every such instalment at the time specified by the Commissioner.

[9] Section 76A Sheriff’s additional costs of taking enforcement action under this Division

Omit the section.