

Driving Instructors Regulation 2016

[2016-542]



New South Wales

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Provisions in force

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

Authorisation

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Driving Instructors Regulation 2016



New South Wales

1 Name of Regulation

This Regulation is the *Driving Instructors Regulation 2016*.

2 Commencement

This Regulation commences on 1 September 2016 and is required to be published on the NSW legislation website.

Note—

This Regulation replaces the *Driving Instructors Regulation 2009*, which is repealed on 1 September 2016 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

driving instruction means instruction given to a person for the purpose of teaching the person to drive a motor vehicle.

driving instructor's licence means a licence under the Act.

motor bike has the same meaning as in the *Road Rules 2014*.

the Act means the *Driving Instructors Act 1992*.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

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

4 Certain persons not driving instructors for purpose of Act

(1) For the purposes of section 4 (3) of the Act, the following persons, when providing driving instruction in the following circumstances, are not driving instructors for the purposes of the Act:

(a) a person who provides driving instruction that does not involve the use of a motor

vehicle (such as in a classroom or by using a simulator),

- (b) a person who provides driving instruction in a motor vehicle to the holder of a driver licence, if the holder:
 - (i) is already authorised by the licence to drive the motor vehicle unsupervised on a road, and
 - (ii) is not receiving instruction for the purposes of removing a condition from that licence.
- (2) For the purposes of section 4 (3) of the Act, an employee or contractor of the Authority or Service NSW who assesses or tests a person for the purposes of enabling that person to obtain or vary a driver licence is not a driving instructor for the purposes of the Act.

5 Fees

- (1) For the purposes of sections 11 (2), 30 (2) (b) and 59 (2) (a) of the Act, the fees set out in Schedule 1 are payable to the Authority in respect of the services specified in that Schedule.
- (2) Despite subclause (1), a certificate under section 46 of the Act may be issued without the imposition of a fee.

6 Production of driving instructor's licence

A driving instructor must not give driving instruction on any occasion to a person until the instructor has produced his or her driving instructor's licence to the person and allowed the person time to examine the licence.

Maximum penalty: 20 penalty units.

7 Improper use or care of driving instructor's licence

- (1) A person must not, in purported compliance with clause 6, produce a driving instructor's licence that:
 - (a) has been altered, mutilated or defaced in any manner, or
 - (b) was not issued to the person, or
 - (c) contains any particulars which the person knows to be false or misleading in a material respect.
- (2) A person who holds a driving instructor's licence must not do any of the following in purported reliance on a driving instructor's licence of a kind referred to in subclause (1):
 - (a) act as a driving instructor in a motor vehicle,

- (b) drive a motor vehicle,
 - (c) cause or permit a motor vehicle to be driven or stood.
- (3) A person must not, without reasonable excuse, alter, mutilate or deface a driving instructor's licence.
- (4) A person must not lend or otherwise part with possession of his or her driving instructor's licence.

Maximum penalty: 20 penalty units.

7A Types of licences

- (1) The types of licence are as follows:
- (a) Type 1,
 - (b) Type 2,
 - (c) Type 2 endorsed,
 - (d) Type 3,
 - (e) Type 4,
 - (f) Type 4 endorsed,
 - (g) Type 5.
- (2) It is a condition of a licence that the holder act as a driving instructor only in respect of the following vehicles:
- (a) for a **Type 1 licence**—motor vehicles with a GVM of 4.5 tonnes or less or a tractor or implement (but not a motor bike, motor trike or a vehicle seating more than 12 adults including the driver),
 - (b) for a **Type 2 licence**—motor vehicles:
 - (i) having a GVM greater than 4.5 tonnes but not greater than 8 tonnes, or
 - (ii) seating more than 12 adults (including the driver) and having a GVM not greater than 8 tonnes,
 - (c) for a **Type 2 endorsed licence**:
 - (i) motor vehicles for which the holder of a Type 2 licence may act as a driving instructor, and
 - (ii) motor vehicles having 2 axles and a GVM greater than 8 tonnes,

(d) for a **Type 3 licence**:

- (i) motor vehicles for which the holder of a Type 2 endorsed licence may act as a driving instructor, and
- (ii) motor vehicles having 3 or more axles and a GVM greater than 8 tonnes (including an articulated bus, but not including any other articulated vehicle),

(e) for a **Type 4 licence**:

- (i) motor vehicles for which the holder of a Type 3 licence may act as a driving instructor, and
- (ii) prime movers to which a single semi-trailer plus any unladen converter dolly is attached, and
- (iii) rigid motor vehicles to which a trailer that has a GVM greater than 9 tonnes plus any unladen converter dolly is attached,

(f) for a **Type 4 endorsed licence**—motor vehicles other than motor vehicles for which the holder of a Type 1 licence or Type 5 licence may act as a driving instructor,

(g) for a **Type 5 licence**—motor bikes or motor trikes.

(3) In this clause:

GVM has the same meaning as in the [Road Transport Act 2013](#).

implement means a motor vehicle that comprises an excavator, road grader, road roller, bulldozer, forklift truck or other machinery or apparatus and is not constructed on a chassis of a type normally used in the construction of a motor lorry.

7B Conditions of licence

A licence is subject to the following conditions:

- (a) the licence does not authorise a person to act as a driving instructor in relation to a relevant class of motor vehicle unless the instructor also holds a driver licence for the relevant class of motor vehicle,
- (b) if the licence is marked “restricted”—the licence does not authorise a person to act as a driving instructor for the holder of a learner licence.

8 Records to be kept by driving schools

- (1) For the purposes of section 47 (1) of the Act, the proprietor of a driving school must keep, or cause to be kept, in a form approved by the Authority a record of the following:

- (a) the name of the school,
 - (b) the name of each person who is an owner of the school (that is, a person who has any share in the capital of the business of the school, or any entitlement to receive any income derived from the school, whether the entitlement arises at law or in equity or otherwise, and may include a proprietor, or a person having principal control, management and administration, of the school),
 - (c) the name of the person having principal control, management and administration of the school,
 - (d) the name of any other person who engages in the control, management or administration of the school,
 - (e) the name, driver licence number and driving instructor's licence number of each driving instructor working for the school,
 - (f) the name, address and telephone number of each student who receives driving instruction from the school,
 - (g) the registration number of each motor vehicle used by the school to provide driving instruction,
 - (h) details of the comprehensive motor vehicle insurance policy in force (including the name of the insurer, the name of the insured, the number of the policy and the date on which the policy expires) in respect of each motor vehicle used by the school to provide driving instruction.
- (2) The proprietor of a driving school must retain such a record for at least 5 years after the record is made.

Maximum penalty: 20 penalty units.

9 Records to be kept by driving instructors

- (1) For the purposes of section 48 of the Act, a driving instructor must keep in a form approved by the Authority a record of the following:
- (a) the name, driver licence number and driving instructor's licence number of the driving instructor,
 - (b) the name of each driving school for which the driving instructor works,
 - (c) the name, address and telephone number of each student who receives driving instruction from the driving instructor,
 - (d) the driver licence number of each such student,
 - (e) the dates and times of theory and practical instruction for each such student,

- (f) the registration number of each motor vehicle used for practical instruction by the driving instructor,
 - (g) if the driving instructor's motor vehicle is hired solely for a driving test, the name, address and driver licence number of the person presenting for the test.
- (2) The holder of a driving instructor's licence must retain such a record for at least 5 years after the record is made.

Maximum penalty: 20 penalty units.

10 Compulsory comprehensive motor vehicle insurance

- (1) For the purposes of section 54C (3) of the Act, a comprehensive motor vehicle insurance policy required by section 54C (1) of the Act:
- (a) must provide cover of at least \$5,000,000 against any liability for damage to property caused by or arising out of the use of any motor vehicle to which the policy relates, and
 - (b) must indemnify each person for the time being receiving driving instruction or undertaking a driving test by means of or in connection with any such motor vehicle in relation to any damage (including any excess payable on a claim) arising out of the use of the motor vehicle, and
 - (c) must be maintained with a corporation authorised under the [Insurance Act 1973](#) of the Commonwealth to carry on insurance business.
- (2) The Authority may exempt a person from compliance with section 54C (1) of the Act.

11 Duplicate driving controls

- (1) The holder of a driving instructor's licence must not use a motor vehicle to give driving instruction unless the motor vehicle is equipped with duplicate driving controls of a type approved by the Authority.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply:
- (a) in the case of a motor bike, or
 - (b) in any case in which a motor vehicle is provided by a person undergoing driving instruction, or
 - (c) in any case in which the use of a particular motor vehicle has been approved by the Authority in writing, or
 - (d) to any motor vehicle exceeding 4.5 tonnes manufacturer's gross vehicle mass, or

(e) to an implement within the meaning of the *Road Transport (Vehicle Registration) Regulation 2017*.

11A Service of documents on approved electronic addresses

An electronic address (other than an email address) specified by the person being served of a kind approved by the Authority for documents of the kind concerned is prescribed for the purposes of section 58 (1) (f) of the Act.

12 Saving

Any act, matter or thing that, immediately before the repeal of the *Driving Instructors Regulation 2009*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Fees

(Clause 5 (1))

| Type of fee | Fee (\$) |
|--|-----------------|
| Application fee for driving instructor's licence under section 11 of the Act, subject to a condition that the holder complete a further course of training within a specified time | 57 |
| Application fee for any other driving instructor's licence under section 11 of the Act | 186 |
| Application fee for renewal of driving instructor's licence under section 23 of the Act | 186 |
| Fee for issue of duplicate driving instructor's licence under section 30 of the Act | 28 |
| Fee for issue of certificate under section 46 of the Act | 32 |