



New South Wales

Road Transport Legislation Amendment (Dimension Requirement Offences) 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

A *dimension requirement offence* is an offence under:

- (a) rule 102, 103 or 104 of the *Road Rules 2014* involving driving a heavy vehicle past a clearance sign, load limit sign or no truck sign, or
- (b) section 96 or 102 of the *Heavy Vehicle National Law (NSW)* involving driving a heavy vehicle in contravention of a mass or dimension requirement.

The objects of this Regulation are as follows:

- (a) to enable Roads and Maritime Services (the **Authority**) to vary, suspend or cancel the driver licence of a person for up to 3 months if:
 - (i) the driver commits a dimension requirement offence involving a heavy vehicle, or
 - (ii) it appears to the Authority that the driver committed a dimension requirement offence involving a heavy vehicle and the vehicle caused damage to road infrastructure, was involved in an accident, caused a danger or obstruction to traffic or caused an adverse effect on public amenity,
- (b) to provide that a visiting driver ceases to be exempt from NSW driver licence holding requirements if, in the reasonable opinion of the Authority, the Authority could (in the manner set out in paragraph (a)) vary, suspend or cancel a NSW driver licence held by the person, if the person were to hold such a licence,
- (c) to provide for appeals to the Local Court with respect to a decision of the Authority made under the new provisions and to permit the Local Court, in exceptional circumstances, to stay the decision,
- (d) to increase the maximum penalty for certain dimension requirement offences from \$2,200 to \$3,740,
- (e) to permit the Local Court to stay certain decisions of the Authority to suspend the registration of a registrable vehicle,
- (f) to clarify the circumstances in which a decision of a police officer to give an immediate licence suspension notice may be stayed following an appeal to the Local Court.

This Regulation is made under the *Road Transport Act 2013*, including sections 23 (the general statutory rule-making power), 269 and Schedule 1.

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1 Name of Regulation

This Regulation is the *Road Transport Legislation Amendment (Dimension Requirement Offences) Regulation 2015*.

2 Commencement

This Regulation commences on 30 June 2015 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of statutory rules

1.1 Road Transport (Driver Licensing) Regulation 2008

[1] Clause 55A

Insert after clause 55:

55A Variation, suspension or cancellation for heavy vehicle dimension requirement offence

- (1) The Authority may vary, suspend or cancel a person's driver licence for a period not exceeding 3 months if:
 - (a) a court convicts the person of a dimension requirement offence involving a heavy vehicle (whether or not it imposes any penalty), or
 - (b) an amount is paid under a penalty notice issued to the person in respect of a dimension requirement offence involving a heavy vehicle, or
 - (c) a penalty notice enforcement order under the *Fines Act 1996* is made against the person in respect of a dimension requirement offence involving a heavy vehicle, or
 - (d) the Authority is satisfied that a dimension requirement offence involving a heavy vehicle has been committed by the person and the vehicle:
 - (i) caused damage to road infrastructure, or
 - (ii) was involved in an accident, or
 - (iii) caused a danger or obstruction to traffic, or
 - (iv) caused an adverse effect on public amenity.
- (2) In this clause, a ***dimension requirement offence*** is:
 - (a) an offence against rule 102, 103 or 104 of the *Road Rules 2014*, or
 - (b) an offence against section 96 or 102 of the *Heavy Vehicle National Law (NSW)*.

[2] Clause 99 Interstate and international visitors

Insert after clause 99 (4) (g):

- (g1) if, in the reasonable opinion of the Authority, the Authority could, under clause 55A, vary, suspend or cancel a NSW driver licence held by the person, if the person were to hold such a licence,

[3] Clause 99 (4B)

Insert after clause 99 (4A):

- (4B) If the Authority forms an opinion that subclause (4) (g1) applies to a visiting driver, the cessation of the exemption applies only for 3 months (or such lesser period as may be specified by the Authority in the notice given to the visiting driver under subclause (6)).

[4] Clause 99 (6)

Omit "(g) or (h)". Insert instead "(g), (g1) or (h)".

[5] Clause 99 (6) (d) and (e)

Omit the paragraphs. Insert instead:

- (d) if the visiting driver can take action to regain the exemption:
 - (i) the action the visiting driver needs to take, and
 - (ii) the date by which the action must be taken.

1.2 Road Transport (Vehicle Registration) Regulation 2007

[1] Clause 41A Suspension of registration for dimension requirement offence

Omit clause 41A (1) (b). Insert instead:

- (b) the Authority is satisfied that a dimension requirement offence involving the vehicle has been committed and the vehicle:
 - (i) caused damage to road infrastructure, or
 - (ii) was involved in an accident, or
 - (iii) caused a danger or obstruction to traffic, or
 - (iv) caused an adverse effect on public amenity.

[2] Clause 41A (3)

Omit the subclause.

1.3 Road Transport (General) Regulation 2013

[1] Clause 126 Driver licensing decisions

Omit “or 55” wherever occurring in clause 126 (b) and (c). Insert instead “, 55 or 55A”.

[2] Clause 126 (d)

Omit “or (g)”. Insert instead “, (g) or (g1)”.

[3] Clause 135 Certain decisions stayed pending appeal

Omit clause 135 (1) (a).

[4] Clause 135 (1) (b)

Insert “(other than a decision referred to in clause 135A)” after “the Act”.

[5] Clause 135 (1) (c)

Insert “(other than a decision referred to in clause 135A)” after “a person”.

[6] Clause 135 (1) (g)

Insert after clause 135 (1) (f):

- (g) a decision of the Authority to suspend the registration of a motor vehicle under clause 41 (2), (2A) or (2B) of the *Road Transport (Vehicle Registration) Regulation 2007*.

[7] Clause 135 (3) and (4)

Omit the subclauses.

[8] Clause 135A

Insert after clause 135:

135A Certain decisions stayed only in exceptional circumstances

- (1) The Local Court may, in an appeal against a decision of a police officer to give a person an immediate licence suspension notice, make an order staying the decision, but only in exceptional circumstances.
- (2) The Local Court may, in an appeal against any of the following decisions of the Authority, make an order staying the decision but only in exceptional circumstances and after considering any circumstances of aggravation:
 - (a) a decision to suspend the registration of a heavy vehicle under clause 41A of the *Road Transport (Vehicle Registration) Regulation 2007*, or
 - (b) a decision to vary, suspend or cancel the driver licence of a driver of a heavy vehicle under clause 55A of the *Road Transport (Driver Licensing) Regulation 2008*, or
 - (c) a decision of the Authority, based on an opinion formed by the Authority under clause 99 (4) (g1) of the *Road Transport (Driver Licensing) Regulation 2008*, that a driver of a heavy vehicle has ceased to be exempt from the requirements of the driver licensing law.
- (3) In determining *exceptional circumstances* for the purposes of this clause, the Local Court is to take into account each of the following:
 - (a) the strength of the prosecution evidence,
 - (b) the affected person's need for a licence,
 - (c) in relation to an appeal against a decision of a police officer to give the person an immediate licence suspension notice—the potential danger to the community if an order is made,
 - (d) in relation to an appeal against a decision of the Authority to suspend the registration of a heavy vehicle—the hardship that is likely to be experienced by the registered operator of the vehicle,
 - (e) any other matter that the Local Court considers to be relevant.
- (4) In determining *circumstances of aggravation* in relation to a decision referred to in subclause (2) (a)–(c), the Local Court is to take account of whether the relevant heavy vehicle:
 - (a) caused damage to road infrastructure, or
 - (b) was involved in an accident, or
 - (c) caused a danger or obstruction to traffic, or
 - (d) caused an adverse effect on public amenity.

1.4 Road Rules 2014

[1] Rule 102 Clearance and low clearance signs

Omit “20 penalty units” from rule 102 (1). Insert instead “34 penalty units”.

[2] Rule 104 No trucks signs

Omit “20 penalty units” from rule 104 (2). Insert instead “34 penalty units”.