



New South Wales

# Road Transport (General) Amendment (Parking Fine Flexibility and Grace Period) Regulation 2018

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*.

MELINDA PAVEY, MP  
Minister for Roads, Maritime and Freight

## Explanatory note

The object of this Regulation is to extend a recent reduction in the penalty for certain parking offences under the *Local Government Act 1993* and the *Road Rules 2014* so that it also applies to penalty notices issued on behalf of councils or universities.

The reduction of penalty, from \$112 to \$80, will only apply if the relevant council or university has opted to participate in the scheme involving lower penalties and is specifically named in Schedule 5A to the *Road Transport (General) Regulation 2013* (which is inserted by this Regulation). If a council or university has not opted to participate, the higher penalty of \$112 will continue to apply to penalty notices issued by its enforcement officers in relation to the relevant offences.

This Regulation also:

- (a) provides for a 10 minute grace period in respect of certain parking offences during which a penalty notice will not be issued (this will occur where a motorist has paid to park for 1 hour or more), and
- (b) updates the language in the provisions of the *Road Transport (General) Regulation 2013* about penalty notice offences.

This Regulation is made under the *Road Transport Act 2013*, including sections 23 (the general statutory rule-making power) and 195 (3).

## **Road Transport (General) Amendment (Parking Fine Flexibility and Grace Period) Regulation 2018**

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### **1 Name of Regulation**

This Regulation is the *Road Transport (General) Amendment (Parking Fine Flexibility and Grace Period) Regulation 2018*.

### **2 Commencement**

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

## **Schedule 1      Amendment of Road Transport (General) Regulation 2013**

### **[1]    Clauses 122 and 122A**

Omit clause 122. Insert instead:

#### **122    Penalty notice offences**

- (1) For the purposes of section 195 of the Act:
  - (a) each offence specified in Column 1 of Schedule 5 is an offence for which a penalty notice may be issued, and
  - (b) an authorised officer may issue a penalty notice for the offence only if the authorised officer is a police officer or is of a class specified in relation to the offence in Column 2 of Schedule 5, and  
**Note.** See also clause 122A.
  - (c) the amount payable under any such penalty notice is the amount specified in relation to the offence in Column 3 of Schedule 5.  
**Note.** See also clauses 123A and 123B.
- (2) If the reference to a provision in Column 1 of Schedule 5 is qualified by words that restrict its operation to specified kinds of offences or to offences committed in specified circumstances, a penalty notice may only be issued for the offence if it is an offence of a kind so specified or is committed in the circumstances so specified.

#### **122A    Authorised officers of councils and declared organisations**

- (1) In addition to clause 122 (1) (b):
  - (a) an authorised officer who is an officer or employee of a council may exercise the functions of an authorised officer only within the local government area of that council, and
  - (b) an authorised officer who is an officer or employee of a declared organisation may exercise the functions of an authorised officer only within the area of operations of that organisation.
- (2) Subclause (1) does not prevent an authorised officer who is an officer or employee of a council or declared organisation from exercising the functions of an authorised officer:
  - (a) in the local government area of some other council, or
  - (b) in the area of operations of some other declared organisation,  
under an arrangement entered into between the bodies concerned in relation to the exercise of those functions within those areas.

### **[2]    Clauses 123A–123C**

Insert after clause 123:

#### **123A    Penalty levels for certain camera recorded offences**

Despite clause 122 (1) (c), the amount of the prescribed penalty for a camera recorded offence of a kind referred to in section 184 (2) of the Act of which a corporation is taken to be guilty under section 184 (1) of the Act is 5 times the amount specified in Schedule 5 as the penalty amount for the offence unless a lesser amount is specified in that Schedule for the offence when it is committed by a corporation.

**123B Lower penalty levels for certain parking offences dealt with by penalty notice**

- (1) The amount payable under a penalty notice for a relevant parking offence is \$80 if the penalty notice is issued by:
  - (a) an authorised officer who is a police officer, or
  - (b) an authorised officer who is of a class specified in relation to the offence in Column 2 of Schedule 5 (except a Class 12 officer or a university parking officer), or
  - (c) a Class 12 officer appointed by a council that is listed in Part 1 of Schedule 5A, or
  - (d) a Class 12 officer exercising functions in the local government area of a council that is listed in Part 1 of Schedule 5A, in accordance with an arrangement referred to in clause 122A (2), or
  - (e) in relation only to a relevant parking offence that is also a designated university parking offence, a university parking officer for a university that is listed in Part 2 of Schedule 5A.
- (2) The Minister must not recommend the making of a regulation that amends Schedule 5A to include the name of a council or a university unless the Treasurer has advised the Minister that the council or university concerned has notified the Treasurer in writing that it has resolved to opt in to the lower penalty prescribed by this clause.
- (3) This clause applies despite clause 122 (1) (c).
- (4) In this clause:

**designated university parking offence** means an offence that is created by rule 168-1, 179-1 (1) or (5), 207-1 (6) or (11) or 207-3 (1) or (4) of the *Road Rules 2014*.

**relevant parking offence** means an offence that is created by any of the following provisions:

  - (a) section 650 (1) (in relation to a notice or sign referred to in section 650 (2) (b)) or (4) (a) of the *Local Government Act 1993*,
  - (b) rule 168-1, 179-1 (1) or (5), 205, 207-1 (6) or (11) or 207-3 (1) or (4) of the *Road Rules 2014*.

**university parking officer** for a university means a person:

  - (a) who is employed by the university as an enforcement officer, or
  - (b) who is subject to the control and direction of the university as an enforcement officer.

**123C Grace period for certain parking offences**

- (1) A penalty notice is not to be issued for a designated parking offence allegedly committed during the grace period for the offence but only if:
  - (a) the vehicle is parked in a location where parking is permitted if a fee is paid, and
  - (b) a fee has been paid for the hour immediately before the grace period commenced that entitled the vehicle to be parked in that location, and
  - (c) the offence did not occur in a shared zone within the meaning of the *Road Rules 2014*.
- (2) This clause does not prevent the issue of a penalty notice for an offence under rule 154, 156, 167, 176, 179, 183, 186 or 205A-1 of the *Road Rules 2014* if, during the grace period for a designated parking offence:

- (a) a prescribed parking control sign applies to the same length of road or area as that in which the relevant vehicle is parked, and
  - (b) the relevant driver is prohibited by any of those rules from parking on the length of road, or in the area, during that time.
- (3) This clause does not apply to a penalty notice issued before 31 January 2019.
- (4) In this clause:
- designated parking offence** means an offence under any of the following provisions of the *Road Rules 2014*:
- (a) rule 207-3 (4),
  - (b) rule 207-3 (5),
  - (c) rule 207-5 (5),
  - (d) rule 207-5 (6).
- grace period** for a designated parking offence means the 10 minutes following the expiry of the time that a driver may allow the driver's vehicle to remain parked without committing the designated parking offence.
- prescribed parking control sign** means any of the following:
- (a) a bus lane sign as referred to in rule 154 of the *Road Rules 2014*,
  - (b) a transit lane sign as referred to in rule 156 of the *Road Rules 2014*,
  - (c) a no stopping sign as referred to in rule 167 of the *Road Rules 2014*,
  - (d) a clearway sign as referred to in rule 176 of the *Road Rules 2014*,
  - (e) a loading zone sign as referred to in rule 179 of the *Road Rules 2014*,
  - (f) a bus zone sign as referred to in rule 183 of the *Road Rules 2014*,
  - (g) a mail zone sign as referred to in rule 186 of the *Road Rules 2014*,
  - (h) a special event parking area sign as referred to in rule 205A-1 of the *Road Rules 2014*.

**[3] Schedule 5A**

Insert after Schedule 5:

**Schedule 5A Lower penalty levels for certain parking offences**

(Clause 123B)

**Part 1 Councils that have opted to participate**

[When this Schedule commenced, no councils were listed in this Part]

**Part 2 Universities that have opted to participate**

[When this Schedule commenced, no universities were listed in this Part]