



Roads Regulation 2018

Regulatory Impact Statement

Contents

1	Executive Summary	3
2	Public consultation on the proposed Regulation.....	4
2.1	How to make a submission.....	4
2.2	What will happen with the submissions?.....	4
3	Background.....	5
3.1	Road management in NSW	5
3.2	Roads legislation	5
3.3	Regulatory Impact Statement process	5
3.4	Consultation	6
4	Assessment of options to achieve objectives	7
4.1	NSW Guide to Better Regulation	7
4.2	Option 1 – Allow the Regulation to lapse	7
4.3	Option 2 – Remake the existing Regulation without amendments	8
4.4	Option 3 – Remake the Regulation with amendments (the proposed Regulation)	8
5	Discussion of the proposed Regulation	10
5.1	Preliminary	10
5.2	Roads.....	10
5.3	Tollways	10
5.4	Bridges and tunnels.....	13
5.5	Ferries	14
5.6	Public gates.....	14
5.7	Miscellaneous.....	14
	Appendix 1 – List of stakeholders for consultation purposes.....	16
	Appendix 2 – Table with comparison of existing Regulation with proposed Regulation.....	17

Author: Transport for NSW
Date: June 2018
Version: 1
Reference: ISBN 978-1-925737-91-2
Division: Freight, Strategy and Planning

1 Executive Summary

The Roads Regulation 2008 is the principal statutory rule made under the *Roads Act 1993* and provides important administrative support in relation to the use of roads and related infrastructure in NSW. The existing Regulation specifies procedures that relate to:

- road management including offences relating to the protection of roads, traffic and public safety
- the use of tollways including the payment of tolls and charges
- bridges and tunnels including the protection of infrastructure and public safety
- road ferries including the conduct of passengers and safety matters
- offences under the *Roads Act 1993* for which penalty notices may be issued
- the roads authorities for public roads in NSW.

The Roads Regulation 2008 is being remade as part of staged repeal of statutory rules required under the *Subordinate Legislation Act 1989*. The repeal of the existing Regulation is now due for repeal on 1 September 2018.

The proposed Regulation is a draft. It has been released with this Regulatory Impact Statement (RIS) so that interested parties can review it and provide comments and suggestions. The RIS sets out the objectives and rationale of the proposed Regulation. It considers three options for achieving those objectives as well as an assessment of the costs and benefits of each option.

The making of the proposed Regulation is the best option available to achieve the objectives of the *Roads Act 1993* because it has been updated to reflect current toll payments methods and improved practice for the management of the payment of tolls and charges including payment disputes.

Submissions are invited on any of the matters raised in the discussion or anything else contained in the proposed Regulation. All submissions will be considered and may result in amendments to the proposed Regulation.

The proposed Regulation will be finalised and published on the NSW Legislation website to enable it to commence on 1 September 2018.

2 Public consultation on the proposed Regulation

A public notice of the proposed Roads Regulation 2018 (proposed Regulation) has appeared in the Government Gazette, the Sydney Morning Herald and the Daily Telegraph. The proposed Regulation and RIS are available for download at the [Transport for NSW website](#). A link to this page is given at the [Roads and Maritime Services website](#). The public consultation period is 28 days.

The RIS has also been distributed to the key stakeholders listed at Appendix 1.

2.1 How to make a submission

Interested parties including stakeholder groups, other interested organisations and the wider community are invited to submit written comments on the proposed Regulation to Transport for NSW. Comments and suggestions may be provided on individual matters or on the proposed Regulation as a whole. If commenting on a specific matter, please refer to the clause number of the proposed Regulation.

By post: Roads Regulation 2018
Driver and Vehicle Policy
Freight, Strategy and Planning
Transport for NSW
PO Box K659
Haymarket NSW 1240

By email: RoadsReg2018@transport.nsw.gov.au.

The closing date for submissions is 5 pm on 20 July 2018.

2.2 What will happen with the submissions?

Transport for NSW will review the submissions received and the proposed Regulation may be amended. Copies of submissions will be provided to the Legislation Review Committee of the NSW Parliament along with the final version of the proposed Regulation. All submissions received will be published. If you wish all or part of your submission to be treated as confidential, please clearly state this in your submission.

3 Background

3.1 Road management in NSW

Roads and Maritime Services (RMS)¹ is the NSW roads authority that has the primary responsibility 'to build, manage and maintain state road...networks and assets'.² Assets for which RMS is directly responsible for include around 18,000 km of State roads, 5623 bridges and 28 road tunnels.³ The principal legislative instrument for the administration of road infrastructure in NSW, including road classification and funding, is the *Roads Act 1993* (the Roads Act).

3.2 Roads legislation

The Roads Regulation 2008 (the existing Regulation) commenced on 3 June 2008 to support the operation of the Roads Act. At present, the Regulation is due to be automatically repealed on 1 September 2018, unless remade.

The existing Regulation supports the operation of the Roads Act. The objects of the Roads Act are:

- to set out the rights of members of the public to pass along public roads
- to set out the rights of persons who own land adjoining a public road to have access to the public road
- to establish the procedures for the opening and closing of a public road
- to provide for the classification of roads
- to provide for the declaration of RMS and other public authorities as roads authorities for both classified and unclassified roads
- to confer certain functions (in particular, the function of carrying out road work) on RMS and on other roads authorities
- to provide for the distribution of the functions conferred by this Act between RMS and other roads authorities, and
- to regulate the carrying out of various activities on public roads.⁴

The existing Regulation, in regulating 'the carrying out of various activities on public roads', provides administrative support for the Roads Act in relation to, among other things, the protection of roads, protection of public safety, stability of bridges, the operation of road ferries, the use of tollways and the payment of tolls and charges.

3.3 Regulatory Impact Statement process

The *Subordinate Legislation Act 1989* provides for regulations to have a limited life. In most cases, regulations are automatically repealed after five years. When a regulation is due for repeal, the responsible agency must review the regulation and the need for the regulation. The agency must then make a decision about whether the regulation should be remade. The results of this review are required to be published in a RIS and submissions invited from the public.

¹ In its Annual Report, Roads and Maritime Services refers to itself as Roads and Maritime however it is defined as RMS for the purposes of section 3 of the *Transport Administration Act 1988*.

² Roads and Maritime Services, *Annual Report 2016-7*, p.9.

³ RMS Annual Report, p.16.

⁴ *Roads Act 1993*, section 3.

The existing Regulation is due for repeal on 1 September 2018.

3.4 Consultation

In November 2017, the Minister for Roads, Maritime and Freight wrote to the Minister for Transport and Infrastructure, the Minister for WestConnex, the Minister for Lands and Forestry, the Minister for the Environment and Minister for Local Government. These are the responsible Ministers for parts of the Roads Act and they were advised of the intention to remake the existing Regulation in consultation with the relevant agencies within the Ministers' portfolios.

The RIS and the proposed Regulation provide interested stakeholders, including the toll industry, roads authorities and members of the wider community, with an opportunity for direct input into the regulatory development process.

4 Assessment of options to achieve objectives

4.1 NSW Guide to Better Regulation

The *NSW Guide to Better Regulation* expresses the opposing forces at work in government regulation:

Regulation is an important tool available to government...[and] helps deliver the community's economic, social and environmental goals. However, regulation can also impose administrative and compliance burdens on business, not for profits, consumers, government and the wider community. These burdens must be weighed against the benefits that the regulation generates.⁵

This part of the RIS deals with options for providing the necessary support required to achieve the objectives of the Roads Act. Three options are discussed and the costs and benefits of each option are assessed. After careful appraisal, it is considered that the making of the proposed Regulation (Option 3) is the best option for providing the administrative and operational underpinnings to achieve the objectives of the Roads Act and overall benefits to business and the community.

4.2 Option 1 – Allow the Regulation to lapse

If the Regulation is not made, the existing Regulation will lapse on 1 September 2018.

Costs

The objectives of the Roads Act are laid out in 3.2 of this RIS. Functions of the Roads Act also include, among other things, mechanisms for the provision of financial assistance to roads authorities (mostly councils) and the ability to 'levy and collect tolls and charges for traffic using a tollway'.⁶

The function of a regulation is to provide administrative detail to assist in the fulfilment of the objectives of the primary legislation (the Act). Regulations provide the 'nuts and bolts' of the legal structure; regulations are more easily and regularly amended than Acts of Parliament to allow for changes in technology, changes in the prices of goods and services, increased penalties for offences, alterations in agency arrangements and similar more ephemeral matters.

If the existing Regulation is allowed to lapse without replacement there would be no legislative basis for 'carrying out various activities on public roads'. These include rules relating to the protection of roads, traffic and public safety. The use of tollways, a major part of modern road infrastructure, would not be regulated and the public would not have the benefit of access to rules relating to the obligation to pay tolls and charges and the ability for toll users to object to the payment of tolls. These rules provide information and legal protection where matters are in dispute. There would be no regulations relating to safe behaviour in tunnels and on or near bridges, including the Sydney Harbour Bridge, an important and iconic thoroughfare. Rules for the operation of road ferries and the behaviour of their passengers would no longer apply. Without the requirement for toll service providers to provide information to RMS, the toll relief scheme could not be implemented in its current form (please see section 5.7 below).

⁵ Department of Finance, Services and Innovation *NSW Guide to Better Regulation*, October 2016, p.6.

⁶ See the *Roads Act 1993*, Part 13 Finance, Division 2 Tolls and charges for tollways, bridges, tunnels and road-ferries

Benefits

There does not appear to be any readily identifiable benefit in allowing the existing Regulation to lapse.

Conclusion

This option is not recommended.

4.3 Option 2 – Remake the existing Regulation without amendments

To remake the existing Regulation without amendments would continue the operation of all current provisions in the Regulation.

Costs

The existing Regulation reflects outdated practices in terms of toll collection: for example, it refers to money and coins. This is no longer the prevailing practice on NSW tollways.

The existing provision relating to the objections in relation to payment of a toll is unnecessarily complex and does not reflect modern best practice. This clause is outdated, cumbersome and inefficient and relates to an era when tolls were relatively rare.

Benefits

The existing Regulation has successfully operated since it was made in 2008, providing necessary administrative and procedural support for the operation of the Roads Act in NSW. This would continue.

Conclusion

The existing Regulation no longer properly reflects current practice regarding 'cashless' tollways for example and misses other opportunities for fine tuning the operation of toll collection and the management of objections. This option is not recommended.

4.4 Option 3 – Remake the Regulation with amendments (the proposed Regulation)

The existing Regulation provides much of the necessary administrative and procedural detail to enable the Roads Act to operate effectively. Indeed, many of the provisions in the existing Regulation have been carried over unchanged to the proposed Regulation (see Appendix 2). However, Transport for NSW and RMS, in consultation with stakeholders, have identified outdated practices which are proposed for amendment. Indeed, the process of remaking the regulation provides an opportunity to examine each provision for clarity, currency and efficiency. The accompanying consultation process invites the general public and stakeholder groups to examine the proposed Regulation in detail and to decide whether the amendments improve its operation.

Costs

The new requirement at clause 19(3) to publish certain information is an additional impost on toll operators. However, as all toll operators have websites or access to social media platforms, and include much of this information already, this should not be a large imposition.

Benefits

The process of remaking represents an opportunity to improve the efficiency and efficacy of the existing Regulation. The proposed Regulation reflects the changes that have been made to tollway operation since their introduction when manual payment at a toll booth was the norm.

In order to extend essential road infrastructure, the NSW Government has partnered with several private companies to finance, build, operate and maintain a number of motorways around Sydney. The Sydney Motorway Network now comprises of over 160 kilometres of roads offering greater travel reliability and faster passage. Motorists are required by law to pay a toll to drive on certain roads.

All toll roads in Sydney, and indeed all toll roads in Australia, are now cashless. Drivers are expected to have an electronic tag or pass to pay tolls. If not equipped with a tag, a pass can be set up before a journey or up to three days after the vehicle has used a toll road.

Current toll payment is much more efficient, no longer obliging drivers to slow down or stop at toll points and uses electronic tags detected by electronic sensors to identify vehicles tied to toll accounts from which the toll amount is deducted. The proposed Regulation reflects modern practice without excluding future developments in technology.

The addition of a new provision - to allow the recovery of any unpaid toll or charge from the registered operator of the vehicle as a debt - regularises the current practice of toll operators issuing toll notices based on number plate identification, or pursuing civil debt recovery or recovering the debt in a court.

A new subclause has been introduced (19(3)) requiring toll operators to publish information on the Internet relating to the amount of the toll, administrative charges in relation to unpaid tolls, where objections may be lodged and so on. This gives a higher level of transparency to the proposed Regulation. It will also explain to whom an objection should be made in the case of a toll notice received as a result of incurring multiple tolls for adjoining motorways.

The amendment to the toll payment objection provision gives toll users much longer to lodge an objection (60 days) in recognition of the time over which account balances or credit card statements may be received. The internal review of objections updates the review practice consistent with those prescribed in other legislation and adds a ground on which an application for review might be made.⁷

These amendments in the proposed Regulation provide an overall net benefit to stakeholders.

Conclusion

It is proposed that remaking the Regulation with amendments (the proposed Regulation) is the preferred option.

⁷ See reference to other legislation under discussion of clause 22.

5 Discussion of the proposed Regulation

The proposed Regulation retains some provisions which are similar, even identical, to those found in the existing Regulation 2008. It also contains some new provisions to give effect to current toll payment arrangements and related amendments.

5.1 Preliminary

Part 1 of the proposed Regulation contains housekeeping information relating to the name of the Regulation and its commencement date. Importantly, it also contains Definitions (clause 3) which give legal meaning to the terms used in the Regulation. These definitions augment those found in the Roads Act. Some have been moved to new locations in the proposed Regulation (see Appendix 2).

5.2 Roads

General

Clause 5 has been amended to allow a roads authority to notify its intention to close a public road by means wider than a notice published in a local newspaper. Clause 6 concerning traffic controllers has been amended to reflect the fact that SafeWork NSW has assumed the function of training and authorising traffic controllers from RMS. Clause 7 Procedure for naming roads has been amended to allow publication of a proposal on the internet and refers to the obligation to notify 'all relevant parties' rather than specific agencies. This allows for flexibility.

Protection of roads and traffic

Clauses 8-11 have been carried over without change from the existing Regulation (formerly clauses 11-14).

Protection of public safety

Clauses 12-14 (formerly 15-17) have been carried over without change from the 2008 Regulation.

Protection from neighbouring land

Clauses 15-18 have been carried over while the former clause 21A Filming projects may now be found at clause 79 (Miscellaneous).

5.3 Tollways

The opportunity has been taken to update Part 3 Tollways to reflect changes in technology, current arrangements for toll payment and other matters relating to tolls. It is intended to provide among other things, for increasing sophistication of toll technology without the necessity to amend the Regulation in future. The remaking of the Regulation allows the adding of greater transparency to the way in which tolls are levied and collected.

Payment of tolls and charges

Clause 19(1) provides that the driver of a vehicle that passes a toll point on a tollway must pay the toll to the toll operator. Importantly, Section 244 of the Roads Act makes the 'owner of a vehicle' guilty of an offence under this clause unless the vehicle was stolen or the owner nominates another person as the person in charge of the vehicle at the time of the offence.

In most cases, the vehicle owner or the registered operator has an electronic tag or similar device attached to the vehicle which, when passing a sensor unit at a toll point, allows for the amount of the toll to be deducted from the tolling account linked to the tag.⁸ Alternatively, with an electronic pass, video images are used to match the number plate to a short term account. Cameras also record and identify vehicles, including those without e-tags but whose vehicle number plate is associated with a tolling account.

Where a registered operator does not have a tag or 'e pass' or the number plate of the vehicle is not associated with a tolling account, or the tag is not functional or the tolling account has insufficient funds, he or she is usually given 3 days to make an arrangement to pay the toll. This is the 'time...specified by the toll operator'. The toll must be paid in the 'manner specified' by the toll operator. An offence occurs when the time to pay elapses and the toll is not paid. After this, the toll operator may commence proceedings to recover the unpaid toll and charge including the issue of toll notices or civil debt proceedings.

A new provision at clause 80 regularises this process:

Any unpaid toll or charge payable in respect of a vehicle under clause 19 may be recovered from the registered operator of the vehicle (within the meaning of the *Road Transport Act 2013*) by the toll operator as a debt.

Clause 19(2) provides that the requirement to pay a toll or charge 'includes a requirement to pay the toll or charge in accordance with any terms or conditions (including a term requiring the payment of an administrative charge)...'. Most e-tag accounts and passes have fees attached to them: for start-up, account maintenance and vehicle matching for example. This is in addition to the toll. An unpaid toll (after the time to pay has elapsed) requires the toll operator to identify the registered operator from RMS toll camera photographs and its registration database in order to pursue the debt. This produces an operational cost which is passed on to the registered operator.

A toll notice (or demand for payment) may be issued to the registered operator: it sets out the time and manner in which the toll operator requires the toll to be paid and includes an administrative charge to recover the cost of collecting the toll in this manner.⁹ The registered operator can pass the toll notice to the driver and ask him or her to pay. If they don't pay, a second toll notice may be issued and the registered operator can formally nominate the driver by statutory declaration. If no action is taken, a final toll notice may be sent to the registered operator of the vehicle. The letter will request payment of the toll and an administration charge to recover the cost of collecting the toll in this manner. Eventually, the matter may be referred to Revenue NSW which issues a penalty notice for an offence against clause 19(1) for an unpaid toll or charge.

Clause 19(3) is a new requirement obliging toll operators to publish on the internet:

- The amount of the toll payable for the use of the tollway and how the amount is calculated (whether it is distance based, for example, or rises in peak periods)
- The amount of any charge, including an administrative charge (as discussed under subclause 19(2)) and how the charge is calculated

⁸ 'tolling account' is defined at clause 78

⁹ If toll user has a Transurban account in NSW, no fee is charged if the toll is charged to the account within 25 days. See also <http://www.rms.nsw.gov.au/sydney-motorways/toll-notices/index.html>

- The time within which a toll must be paid
- The manner in which it must be paid
- Any other terms and conditions that apply to tolls and charges
- The procedure for objecting to the imposition or the amount of the toll or charge
- That it is an offence for the driver of a vehicle that passes a toll point not to pay a toll for the use of the tollway.

The intention is to provide readily accessible information to users of tollways about the amount of toll payments they will be liable for and the consequences of non-payment or late payment. Tollway users will be advised where and how objections in relation to the payment of tolls and charges may be lodged. This information is important for the effective operation of clause 21 (objection in relation to payment of tolls and charges). Most toll operators already publish this information.

The clause which makes it an offence for persons to interfere with toll equipment (clause 20) is carried over from the toll collection offences provision in the existing Regulation with the exception of the deletion of the offence in subclause (2) referring to attempts to pay a toll using 'a voucher or device'.

Clause 21 makes some substantive changes to the current provision in relation to objections. Importantly, the time within which a person (an **objector**) may make an objection to the imposition or amount of a toll or a charge has been extended to 60 days (currently 14 days). This recognises that information about toll payments made electronically can take some time to become available (e.g. receipt of a periodic credit card statement); 60 days also aligns with the time allowed for a penalty notice review to be lodged.¹⁰ It allows the toll operator 14 days (currently 7 days) to deal with an objection including informing the objector of the right to apply for an internal review of the decision (see clause 22). The toll operator is taken to have dismissed an objection if the toll operator does not deal with the objection within 14 days.

The revised clause 22 (Internal reviews of objection decisions) makes changes to the way in which reviews of objection decisions are made. Firstly, clause 22 provides a new ground upon which a person may apply for a review of the decision: where '...the toll operator is taken to have dismissed the objection...' In other words, an application for an internal review may be made where it appears that the toll operator has not made a decision.

Secondly, reviews of the original decision are now specified as 'internal reviews'. The existing Regulation carries over an old clause (clause 27) which provides that if the original objection was made to RMS, the Minister is the reviewer and where the objection was as made to a toll operator other than RMS to an assessor nominated by the toll operator and approved by RMS. It reflects a time when the motorway network in NSW was far less extensive than it is today. The process it outlines is potentially problematic for the Minister, unnecessarily complex and out of step with modern administrative decision review regimes. Under these, reviews of decisions:

- Are dealt with by the agency that made the decision (or contracted to Revenue NSW, for example, by a service level agreement)
- Provide for an internal review of the decision by a person in the agency senior to the original decision maker

¹⁰ See <http://www.revenue.nsw.gov.au/finest/pn/review>

- Provide review by a court or tribunal.¹¹

Accordingly, if a person (toll user) objects to or disagrees with a toll or charge, he or she goes to the issuing body (the toll operator). If not satisfied, he or she can request an internal review of the decision. The clause provides that the reviewer, directed by the toll operator, must not be the person who was involved in the original decision. This process, which reflects modern administrative practice, is consistent with internal reviews of decisions required under the *Government Information (Public Access) Act 2009* and the *Privacy and Personal Information Protection Act 1998* (PPIPA). There is no appeal to the New South Wales Civil and Administrative Tribunal for reviews of decisions arising in relation to toll matters. Finally, where a matter proceeds to the issue of a penalty notice, a person may lodge a request for a review of the offence with Revenue NSW.

Clauses 23 and 24 carry over clause 28 in the existing Regulation in two provisions with new titles relating to toll cameras and photographs. Clause 25 amends the existing provision (clause 29) relating to divulging toll camera information to prescribed persons to include a law enforcement agency within the meaning of the PPIPA.

Clause 26 moves the previous clause 43 (Exempt vehicles) to this Division and makes its meaning clearer relating to vehicles exempt from paying tolls and charges.

Use of tollways

Clauses 27 and 28 carry over existing provisions relating to vehicles and pedestrians on tollways. Clause 29 and 30 also carry over existing provisions relating to the offences of leaving a vehicle unattended and unloading motor vehicles on a tollway. Clause 31 concerning breakdowns on tollways, has been simplified while the clause (32) relating to straying animals is unchanged.

Miscellaneous

Clause 33 has been amended to remove reference to section 102 of the Roads Act because it already applies to tollways and private classified roads. Clauses 34, 36 and 37 are carried over unchanged while clause 35 adds toll operators to RMS in subclause (1) relating to notices containing directions for the regulation of traffic and the safety of a tollway.

5.4 Bridges and tunnels

Part 4 has a new title reflecting the importance of tunnels to modern road infrastructure. Clauses in Division 1 of this Part relate to safety on bridges and in tunnels – maintaining their structural integrity, prohibiting certain activities and giving RMS the power to control traffic relating to opening and closing bridges. Clause 41 is a new provision which prohibits pedestrians and cyclists from travelling or riding in a tunnel. The 30 penalty unit maximum penalty reflects the serious nature of the offence and the disruption that such activity could cause.

The Part also regulates commercial activities on Sydney Harbour Bridge. Division 2 relates to navigation through opening bridges. Most clauses in the Part (38-53) carry over provisions from the existing Regulation in relation to matters such as climbing or fishing on bridges.

¹¹ See for example review provisions under the *Tow Truck Industry Act 1998* and the *Passenger Transport Act 1990*.

5.5 Ferries

Part 5 concerns the operation of vehicular or road ferries on rivers and waterways in metropolitan Sydney and regional NSW.

General

The clauses in this division (54-57) carry over existing provisions and related to timetables, ferry notice boards and temporary ferry closures.

Conduct of ferry passengers

This division relates to the payment of ferry charges, embarkation and disembarkation procedures and other matters relating to the safe and orderly carriage of vehicles, animals and passengers. The clauses (58-65) are carried over unchanged from the existing Regulation.

Safety equipment and procedures

Two clauses in Division 3 (relating to gates and exits and ferry approaches) are carried over from the existing Regulation. Two clauses have been deleted: the current clause 72 relating to the need for ferries to be inspected and the requirement for ferries to have emergency boats (clause 70). The Australian Maritime Safety Authority now has responsibility for determining inspection, survey standards and related safety requirements for commercial vessels.

5.6 Public gates

Clauses 68-71 in Part 6 Public gates have been carried over from the existing Regulation with only minor amendments.

5.7 Miscellaneous

Clause 72 and 73 concerning transfer of application for closing a public road and acquiring land for a public road have been carried over but updated to reflect the agency with which any transfers must be lodged. Likewise clauses 74 and 75 concerning the issue of certificates of authority to enter land and evidentiary certificates have been amended to reflect the agencies now responsible. Clause 76 concerning authorised officers has been carried over with minor amendments (from the current clause 82) while the list of public authorities in clause 77 has been reduced to five. Clause 79 concerns filming projects and is unchanged.

Clause 78 – Provision of information by toll service providers to RMS and its delegates - was recently introduced into the existing Regulation (at clause 89D). The clause allows RMS to require toll service providers to provide certain information to assist it 'to determine an individual's entitlement to a relevant motor vehicle tax or registration fee exemption'. Toll service providers are defined as:

a person that provides accounts, products or related services to enable the payment of tolls for the use of tollways, bridges, tunnels or road-ferries by persons who are required to pay such tolls.

In November 2017 the Government announced that certain drivers would become eligible for free vehicle registration if they spent more than \$25 a week, on average,

over a 12 month period on tolls.¹² The information from toll service providers in this clause allows the toll relief scheme to be implemented.

Finally, a new provision at clause 80 determines that unpaid tolls and charges are debts (see previous discussion at 5.3 Tollways above).

Schedule 1 Roads Authorities

This Schedule lists roads authorities which in the existing Regulation are to be found in clauses 84-89C.

Schedule 2 Penalty notice offences

This Schedule lists penalty notice offences under the Roads Act and Regulation.

In relation to the penalty amounts, there are generally Consumer Price Index (CPI) adjustments from 1 July each year. The proposed Regulation shows the fees as at 1 July 2017 and these may change with any CPI adjustments in July 2018. The final Regulation made will show the correct amounts prevailing at the time.

¹² <http://www.rms.nsw.gov.au/about/news-events/news/ministerial/2017/171120-toll-relief-free-rego-for-drivers.pdf>

Appendix 1 – List of stakeholders for consultation purposes

The following stakeholders have been notified that the proposed Regulation and this RIS are available for public consultation:

- Sydney Harbour Tunnel Company
- Interlink Roads (M5 South-West Motorway)
- NorthWestern Roads Management Service (Westlink M7 Motorway)
- WestConnex
- Transurban (Hills Motorway, Eastern Distributor, Lane Cove Tunnel and Cross City Tunnel)
- Tolling Customer Ombudsman
- AGL Energy Limited
- Energy Australia
- Origin Energy
- Ausgrid
- Ballina Shire Council
- Hawkesbury City Council
- Shoalhaven City Council
- Port Macquarie-Hastings Council
- National Parks And Wildlife Service (as ferry operator)
- Local Government NSW

Government agencies and state owned corporations consulted include:

- Department of Premier & Cabinet
- Roads and Maritime Services
- Department of Planning and Environment
- Department of Finance, Services and Innovation (SafeWork NSW)
- Office of Local Government NSW
- Revenue NSW
- NSW Department of Industry
- Barangaroo Delivery Authority
- Sydney Water Corporation
- Hunter Water Corporation
- Water NSW
- Essential Energy
- Office of Environment and Heritage
- Lord Howe Island Board Administration Office
- NSW Department of Planning and Environment, Energy, Water and Portfolio Strategy

Appendix 2 – Table with comparison of existing Regulation with proposed Regulation

Roads Regulation 2008	Carried over/deleted/amended	Provision in proposed Roads Regulation 2018	Comment
Part 1 Preliminary			
3 Definitions	Amended	Definition for <i>ferry</i> was moved to new clause 54, <i>opening bridge</i> and <i>operator</i> were moved to new clause 38.	
Part 2 Roads			
4 Application of part			
5 Temporary closing of road	Amended	Clause 5 Includes 'or by other means approved by RMS'	Wider than newspapers.
6 Traffic controllers	Amended	Clause 6: includes new subclause that a person may be engaged as a traffic controller only if the person has completed a training course in traffic control approved by SafeWork NSW etc.	Recognises that SafeWork NSW is the training and accrediting body for traffic controllers.
7 Notice to be given of proposed name 8-10 Various clauses	Amended	Clause 7 Procedure for naming roads	Amalgamates four clauses into one. Proposal to rename a road may be published in a local newspaper or on the internet. Refers to all relevant parties instead of a specific list of agencies.
Protection of roads and traffic			
11 Things placed on and use of roads	Carried over.	Clause 8	
12 Protection of roads	Carried over	Clause 9	
13 Dragging things on road	Carried over	Clause 10	
14 Vehicles in disrepair	Carried over	Clause 11	
Protection of public safety			
15 Lighting and fencing of obstructions and dangers	Carried over	Clause 12	
16 Lights on roads	Carried over	Clause 13	
17 Jumping onto or from bridges and other structures	Carried over	Clause 14	

Roads Regulation 2008	Carried over/deleted/amended	Provision proposed in Roads Regulation 2018	Comment
Protection from neighbouring land			
18 Throwing things onto roads or vehicles	Carried over	Clause 15	
19 Property to be sufficiently spouted	Carried over	Clause 16	
20 Excavations adjacent to road	Carried over	Clause 17	
21 Obstruction on footway or road	Carried over	Clause 18	
21A Filming projects	Carried over	Clause 79	Now found at Part 7 Miscellaneous
Part 3 Tollways			
Payment of tolls and charges	Amended		
22 Definition	Deleted		
23 Driver of vehicle to pay toll	Amended	Clause 19	New subclause: Obligation on the toll operator to publish information on the internet such as the amount of the toll payable etc
24 Manner of payment of toll	Deleted	Clause 19	Outdated mode of payment (coins etc). Manner of payment included in clause 19.
25 Toll collection: offences	Amended	Clause 20	Title change and subclause (2) deleted.
26 Objections in relation to payment of toll	Amended	Clause 21	Title change. Time to make objection expanded to 60 days to take better account of payment methods (receipt of credit card statements etc). Toll operator must deal with objection within 14 days of receiving objection.
27 Review of decision on objection	Amended	Clause 22	New title. New ground for requesting internal review of decision. Minister no longer required to be involved in review of objection decisions.
28 Security indicators: section 250A (2) (b) of Act	Carried over with new title	Clause 23 Security indicators for toll camera photographs	New title
		Clause 24 Inspection of toll cameras	
29 Divulging of information to prescribed persons: section 250A (5)	Amended	Clause 25 Divulging of information from toll cameras to prescribed	Adds a law enforcement agency within the meaning of PPIPA as

Roads Regulation 2008	Carried over/deleted/amended	Provision proposed in Roads Regulation 2018	Comment
(e) of Act		persons	prescribed persons to whom information from toll cameras may be divulged.
		Clause 26 Vehicles exempt from paying tolls and charges	New title.
Use of tollways			
31 Vehicles to use carriageways	Carried over	Clause 27	
32 Pedestrians to use footways and footbridges	Carried over	Clause 28	
33 Leaving motor vehicles unattended	Carried over	Clause 29	
34 Unloading of motor vehicles	Carried over	Clause 30	
35 Breakdowns	Carried over	Clause 31	
36 Straying animals	Carried over	Clause 32	
Miscellaneous			
37 Application of sections 101 and 102 and Division 3 of Part 9 of the Act	Amended	Clause 33	Removes reference to s.102
38 Directions by authorised officers	Carried over	Clause 34	
39 Directions by notice	Amended	Clause 35	Added toll operators in subclause (1)
40 Exemptions	Carried over with amended title	Clause 36	
41 Application of Part to Sydney Harbour Tunnel	Amended: 41 and 42 combined	Clause 37	
42 Application of Part to Sydney Harbour Bridge		Clause 37	
43 Exempt vehicles	Amended	Now clause 26	
Part 4 Bridges	Amended		Part 4 now Bridges and tunnels
General			
		New: clause 38 contains definitions previously in clause 3	
44 Extension of Part to ancillary works and structures	Amended	Clause 39	Refers specifically to tunnels and approaches to tunnels
45 Stability of bridges	Amended	Clause 40	Now 'Behaving unsafely on bridges and tunnels' and includes the offence of interfering with the safe and efficient operation of bridges and tunnels
		Clause 41	New offence provision: Pedestrians and cyclists prohibited in tunnels

Roads Regulation 2008	Carried over/deleted/amended	Provision proposed in Roads Regulation 2018	Comment
46 Climbing on bridges	Carried over	Clause 42	
47 Lighting fires	Carried over	Clause 43	New title: specific to bridges
48 Throwing or dropping things from bridges	Carried over	Clause 44	
49 Fishing from bridges	Carried over	Clause 45	
50 Control of traffic on opening bridges	Carried over	Clause 46	
51 Cyclists to use cycleways on Sydney Harbour Bridge	Carried over	Clause 47	
52 Regulation of commercial activities on Sydney Harbour Bridge and ANZAC Bridge	Carried over	Clause 48	
53 Exemptions	Carried over	Clause 49	
Navigation through opening bridges			
54 Navigation lights for opening bridges	Carried over	Clause 50	
55 Passing near or through opening bridges	Carried over	Clause 51	
56 Signals for use for opening bridges	Carried over	Clause 52	
57 Signals given by vessels	Carried over	Clause 53	
Part 5 Ferries			
General			
		New Clause 54 Definition of ferry previously in clause 3	
58 Timetables	Carried over	Clause 55	
59 Ferries to have notice boards	Carried over	Clause 56	
60 Temporary ferry closures	Carried over	Clause 57	
61 Passengers to pay ferry charges	Carried over	Clause 58	
62 Passengers to embark on or disembark from ferries only with ferry operator's permission	Carried over	Clause 59	
63 Animals and vehicles to embark on or disembark from ferries only on ferry operator's instructions	Carried over	Clause 60	
64 Regulation of commercial activities	Carried over	Clause 61	
65 Confusing lights not to be displayed	Carried over	Clause 62	
66 Passengers on foot to use only areas set aside	Carried over	Clause 63	

Roads Regulation 2008	Carried over/deleted/amended	Provision proposed in Roads Regulation 2018	Comment
for them			
67 General offences	Carried over	Clause 64	
68 Control of traffic on ferries	Carried over	Clause 65	
Safety equipment and procedures			
69 Gates and exits	Carried over	Clause 66	
70 Emergency boats	Deleted		
71 Ferry approaches	Carried over	Clause 67	
72 Ferries to be inspected	Deleted		
Part 6 Public gates			
73 Consent of adjoining landowner to be obtained	Carried over	Clause 68	
74 Notice inviting objections	Carried over	Clause 69	
75 Maintenance of public gates	Carried over	Clause 70	
76 Road near gate	Amended	Clause 71	Minor change
Part 7 Miscellaneous			
77 Transfer of application for the closing of a public road	Amended	Clause 72	Modernised, new agency for lodging transfer.
78 Authority to enter land	Amended	Clause 74	Change in agency names.
79 Transfer of application for the acquisition of land for the purposes of a public road	Amended	Clause 73	Modernised, new agency names.
80 Penalty notices	Deleted		
81 Evidentiary certificates	Amended	Clause 75	Small amendments relating to agency names etc.
82 Authorised officer	Carried over	Clause 76	
83 Public authorities	Amended	Clause 77	Only five public authorities named.
		Clause 78	See below
84 Roads authority for public roads forming part of the M5 East Motorway	Carried over	Schedule 1 Roads Authorities	Placement in Schedule 1 is tidier.
85 Roads authority for public roads (Cross City Tunnel)	Carried over	Schedule 1 Roads Authorities	
86 Roads authority for public roads (Lane Cove Tunnel)	Carried over	Schedule 1 Roads Authorities	
87 Roads authority for public roads (Alpine Way and Kosciuszko Road)	Carried over	Schedule 1 Roads Authorities	
88 Roads authority for public roads (Southern Cross Drive)	Carried over	Schedule 1 Roads Authorities	
88A Roads authority for public roads (Barangaroo)	Carried over	Schedule 1 Roads Authorities	

Roads Regulation 2008	Carried over/deleted/amended	Provision proposed in Roads Regulation 2018	Comment
area)			
89 Roads authority for public roads (Bethanga Bridge)	Carried over	Schedule 1 Roads Authorities	
89A Roads authority for public roads (M2 Motorway upgrade)	Deleted		Deleted based on sunset provisions
89B Roads authority for public roads (M5 West widening)	Deleted		Deleted based on sunset provisions
89C Roads authority for temporary public road (Sydney light rail)	Carried over	Schedule 1 Roads Authorities	
89D Provision of information by toll service providers to RMS and its delegates	Carried over	Clause 78	
90 Repeal	Deleted		
		Clause 80	New provision: Unpaid tolls and charges are debts
91 Savings provision	Amended	Clause 81	
		Schedule 1 Roads authorities	
Schedule 1 Penalty Notice Offences		Now Schedule 2	

Disclaimer

While all care is taken in producing this work, no responsibility is taken or warranty made with respect to the accuracy of any information, data or representation. The authors (including copyright owners) and publishers expressly disclaim all liability in respect of anything done or omitted to be done and the consequences upon reliance of the contents of this publication.

©Transport for NSW