



Sydney Harbour Federation Trust Amendment Regulations 2010 (No. 1)¹

Select Legislative Instrument 2010 No. 48

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Sydney Harbour Federation Trust Act 2001*.

Dated 24 March 2010

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

PETER ROBERT GARRETT
Minister for Environment Protection, Heritage and the Arts

1 Name of Regulations

These Regulations are the *Sydney Harbour Federation Trust Amendment Regulations 2010 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Sydney Harbour Federation Trust Regulations 2001*

Schedule 1 amends the *Sydney Harbour Federation Trust Regulations 2001*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 3, after definition of *Act*

insert

assistance animal means an animal trained to help a person who has a disability to lessen the effects of the disability.

Note A guide dog is an example of an assistance animal.

[2] Regulation 3, after definition of *identity card*

insert

infringement notice means an infringement notice served under subregulation 40G (1).

parking control sign has the meaning given by regulation 22A.

[3] Regulation 3, after definition of *ranger*

ranger identification number, for a person appointed as a ranger, means a ranger identification number allocated to the person under subregulation 27 (2).

road means a road that is open to the public but does not include a path for the use of cyclists or pedestrians.

trailer includes a caravan.

Trust officer means an employee of the Trust who:

- (a) is employed at Trust classification level 6 or higher; and
- (b) is not a ranger.

[4] Regulation 3, definition of *vehicle*, paragraph (c)

omit

vehicle.

insert

vehicle;

[5] Regulation 3, definition of *vehicle*, after paragraph (c)

insert

- (d) for a particular vehicle —a trailer attached to the vehicle.

[6] Regulation 5

substitute

5 Application of road transport legislation

- (1) These Regulations (other than subregulation (2)) do not affect the operation of the road transport legislation (within the meaning of the *Road Transport (General) Act 2005* of New South Wales) in relation to roads and road-related areas on Trust land.
- (2) However, a parking control sign erected by the Trust has effect in the area to which it applies according to its terms.

[7] Subregulation 14 (2), except the note*substitute*

- (2) Subregulation (1) does not apply to an assistance animal that:
- (a) is used by a person with a disability; and
 - (b) is at all times restrained on a lead or by other reasonable means.

[8] Subregulation 14 (5)*omit***[9] After subregulation 14A (2), including the penalty***insert*

- (2A) Paragraphs (1) (d) and (f) do not apply to a person with a disability in relation to an assistance animal used by the person.

[10] Subregulation 16 (1), including the penalty*substitute*

- (1) A person must not drive, ride or tow a vehicle on Trust land that is not a road.

Penalty: 10 penalty units.

- (1A) A person must not park a vehicle on Trust land that is not a parking area within the meaning of regulation 26A.

Penalty: 5 penalty units.

[11] Subregulation 16 (2)*omit*

subregulation (1)

insert

subregulation (1) or (1A)

[12] After subregulation 22 (6), including the penalty*insert*

- (6A) However, subregulation (6) does not apply to a parking control sign.

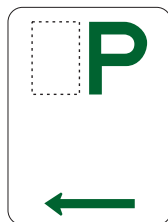
Note For non-compliance with a parking control sign, see Division 2.3.

[13] After regulation 22*insert***22A Parking control signs**

A ***parking control sign*** is a sign erected by the Trust under regulation 22 for the purpose of regulating parking, or the use of vehicles, on Trust land.

Examples of parking control signs

(for a length of road)



(for an area)



(for a length of road)



Note 1 A parking control sign will have a number within the bordered area in the examples (see regulation 22B).

Note 2 A parking control sign may, in comparison with the examples:

(a) have different dimensions; or

- (b) have something on it that is different; or
- (c) have additional information on it; or
- (d) have a different number of panels; or
- (e) be combined on a single panel with 1 or more other signs; or
- (f) have words, figures, symbols or anything else on the sign, differently arranged; or
- (g) have an arrow pointing in a different direction.

22B Meaning of certain information on parking control signs

- (1) This regulation explains the meaning of certain information on a parking control sign applying to a length of road or an area on Trust land.

Note This regulation explains the meaning of information on a parking control sign that may need to be explained. Any other information on a parking control sign has effect according to its terms.

- (2) A whole number, fraction, or whole number and fraction, immediately to the left of the letter 'P' indicates that a person must not park a vehicle on the length of road, or in the area, continuously for longer than the period of hours, or fraction of an hour, equal to the number, fraction, or number and fraction, shown.
- (3) A number, together with the word 'minute', immediately to the right of the letter 'P' indicate that a person must not park a vehicle on the length of road, or in the area, continuously for longer than the number of minutes shown.
- (4) The word 'ticket' or the words 'ticket area' on a sign indicate that a fee is payable for parking a vehicle by buying a ticket for the length of time the vehicle will be parked and correctly displaying the ticket.
- (5) A reference on a parking control sign to a marked space, for parking, is a reference to a parking space within the meaning of regulation 26A.
- (6) A sign with the words 'every day' on it means that it applies on every day, including a public holiday.

[14] After regulation 24

insert

24A Offences involving a vehicle or vessel — liability of owner

- (1) The owner of a vehicle or vessel at the time when an offence relating to the vehicle or vessel under these Regulations (a **relevant offence**) is committed is taken to have committed the offence.

Known user declaration

- (2) However, the owner of the vehicle or vessel is not taken to have committed a relevant offence if:
- (a) the vehicle or vessel was, at the time of the offence, stolen or illegally taken or used; or
 - (b) for an owner who is not a body corporate — within 14 days after service of an infringement notice or a summons for the alleged offence, the owner makes, and gives to a Trust officer, a statutory declaration stating:
 - (i) that it is made for this regulation; and
 - (ii) that he or she was not in charge of the vehicle or vessel at the time of the alleged offence; and
 - (iii) the name and address of the person who was in charge of the vehicle or vessel at that time; or
 - (c) for an owner that is a body corporate — within 14 days after service of an infringement notice or a summons for the alleged offence, a director, manager or secretary of the body corporate makes, and gives to a Trust officer, a statutory declaration stating:
 - (i) that it is made for this regulation; and
 - (ii) that the vehicle or vessel was not being used for the body corporate at the time of the alleged offence; and
 - (iii) the name and address of the person who was in charge of the vehicle or vessel at that time.

Unknown user declaration

- (3) If an infringement notice, or a summons, has been served on the owner of a vehicle or vessel for an alleged relevant offence:
- (a) if the owner is not a body corporate — the owner (or another person having knowledge of the facts) may within 14 days after service of the notice or summons make, and give to a Trust officer, a statutory declaration stating:
 - (i) that it is made for this regulation; and
 - (ii) that the owner was not in charge of the vehicle or vessel at the time of the alleged offence; and
 - (iii) that the owner (and the declarant, if the declarant is not the owner) has not been able to find out who was in charge of the vehicle or vessel at that time; and
 - (iv) the nature of the inquiries made to find out the name and address of the person who was in charge of the vehicle or vessel at that time; or
 - (b) if the owner is a body corporate — a director, manager or secretary of the body corporate may, within 14 days after service of the notice or summons, make, and give to a Trust officer, a statutory declaration stating:
 - (i) that it is made for this regulation; and
 - (ii) that, to the knowledge of the declarant, from the facts as set out in the declaration, the vehicle or vessel was not being used for the body corporate at the time of the alleged offence; and
 - (iii) that the declarant and the body corporate have not been able to find out who was in charge of the vehicle or vessel at that time; and
 - (iv) the nature of the inquiries made to find out the name and address of the person who was in charge of the vehicle or vessel at that time.

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- (4) At the hearing of a prosecution for a relevant offence against the owner of a vehicle or vessel:
- (a) if a statutory declaration under paragraph (3) (a) has been given to a Trust officer — the court must dismiss the charge if it is satisfied (whether on the statements contained in the statutory declaration or otherwise) that:
 - (i) the owner was not in charge of the vehicle or vessel at the time of the alleged offence; and
 - (ii) the inquiries made to find out the name and address of the person who was in charge of the vehicle or vessel at that time were reasonable in the circumstances of the case and were carried out with due diligence; or
 - (b) if a statutory declaration under paragraph (3) (b) has been given to a Trust officer — the court must dismiss the charge if it is satisfied (whether on the statements contained in the statutory declaration or otherwise) that:
 - (i) the vehicle or vessel was not being used for the body corporate at the time of the alleged offence; and
 - (ii) the inquiries made to find out the name and address of the person who was in charge of the vehicle or vessel at that time were reasonable in the circumstances of the case and were carried out with due diligence.
- (5) At the hearing of a prosecution for a relevant offence, a certificate signed by a Trust officer stating that a person named in the certificate has not, in relation to that offence, given a Trust officer a statutory declaration for a provision of this regulation is evidence of the matter so stated.
- (6) For subregulation (5), a document that purports to have been signed by a Trust officer is to be taken to have been so signed unless the contrary is proved.
- (7) This regulation does not affect the liability of a person who actually committed the offence if the person was not the owner of the vehicle or vessel involved in the offence but, if a penalty has been imposed on or recovered from any person for the offence, no further penalty may be imposed on or recovered from anyone else for the same offence.

(8) In this regulation:

owner, for a vehicle or vessel, means:

- (a) for a motor vehicle apparently registered under a law of a State or Territory for the registration of motor vehicles — the registered owner; or
- (b) for a vessel apparently registered under a law of a State or Territory for the registration of vessels — the registered owner; or
- (c) for any other vehicle or vessel — the person who is legally entitled to possession of the vehicle or vessel.

24B Copy of statutory declaration to be served

- (1) This regulation applies if a person is named in a statutory declaration given under paragraph 24A (2) (b) or (c) as being the person who was in charge of a vehicle or vessel at the time of an alleged offence involving the vehicle or vessel.
- (2) A copy of the statutory declaration must:
 - (a) if an infringement notice for the offence is to be served on the person after the statutory declaration is given — be attached to the infringement notice when it is served; or
 - (b) if the person is to be prosecuted for the offence and paragraph (c) does not apply — be attached to the summons for the offence when it is served on the person; or
 - (c) if the person is to be prosecuted for the offence and a summons for the offence was served on the person before the statutory declaration was given — be served on the person at least 3 days before the commencement of the hearing for the offence.
- (3) The statutory declaration is admissible in evidence in a prosecution for the offence against the person and is evidence that the person was in charge of the vehicle or vessel at that time.

[15] **After Division 2.2**

insert

Division 2.3 Offences relating to parking of vehicles

26A Definitions

In this Division:

controlled parking hours, in relation to a parking area, means the periods (as set out in an applicable parking control sign) during which a vehicle may not be parked in the parking area unless the appropriate parking fee has been paid.

driver has the meaning given by regulation 26B.

driver's vehicle, for a driver, means the vehicle being driven by the driver.

mobility parking scheme authority means a mobility parking scheme authority issued under a law of a State, Territory or a foreign country for the use of:

- (a) a person with a disability; or
- (b) an organisation in connection with the conveyance of a person with a disability.

park, for a driver, includes stop.

parking area means a length of road or an area designed for parking vehicles.

parking permit for people with disabilities means a permit, issued under the law of a State, Territory or foreign country, that includes a people with disabilities symbol.

parking space means an area for parking a single vehicle that is indicated by road markings consisting of lines, studs, pads, strips or in some other way.

parking ticket means a ticket issued by the Trust (by means of a ticket vending machine) for display in or on a vehicle as evidence of payment of a fee for parking in a ticket parking area.

people with disabilities symbol means a picture of a person seated in a wheelchair, as in the following diagrams:



stop, for a driver, includes park.

ticket parking area has the meaning given by subregulation 26F (2).

26B Meaning of *driver* and *rider*

- (1) A **driver** is a person who is driving a vehicle (except a person who is riding a motor cycle, bicycle or animal-drawn vehicle).
- (2) A **rider** is a person who is riding a motor cycle, bicycle or animal-drawn vehicle, but does not include a passenger.
- (3) **Drive**, and **ride**, includes be in control of.
- (4) Unless otherwise expressly stated in this Division:
 - (a) each reference in this Division (other than in this regulation) to a **driver** includes a reference to a rider; and
 - (b) each reference in this Division (other than in this regulation) to **driving** includes a reference to riding

26C Parking for longer than indicated

- (1) A driver must not park continuously on a length of road, or in an area, to which a parking control sign applies for longer than the period indicated by information on the sign.

Penalty: 5 penalty units.

Note For how a period is indicated, see subregulations 22B (2) and (3).

- (2) Subregulation (1) does not apply if regulation 26E applies to the driver.

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- (3) If a parking control sign does not indicate a period and does not indicate that it applies at particular times, or at particular times on particular days, a driver may, at any time, park continuously on a length of road, or in an area, to which the sign applies, unless:
- (a) another parking control sign applies to the length of road or area; and
 - (b) the driver is prohibited from parking on the length of road, or in the area, under these Regulations.
- (4) For this regulations, a driver parks continuously on a length of road, or in an area, to which a parking control sign applies, from the time when the driver parks on the length of road, or in the area, until the driver, or another driver, moves the vehicle off the length of road, or out of the area, to which the parking control sign applies.
- (5) An offence against subregulation (1) is an offence of strict liability.

26D Parking outside times indicated

If a parking control sign indicates that it applies at particular times, or at particular times on particular days, a driver may park on the length of road, or in an area, to which the sign applies at a time, or at a time on a day, when the sign does not apply, unless:

- (a) another parking control sign applies to the length of road or area; and
- (b) the driver is prohibited from parking on the length of road, or in the area, at that time, or at that time on that day, under these Regulations.

26E Provision for people with disabilities

- (1) This regulation applies to a driver if:
- (a) the driver's vehicle displays a current parking permit for people with disabilities; and

- (b) if the permit is a mobility parking scheme authority — the driver's vehicle is being used for:
 - (i) the conveyance of the disabled person to whom the authority was issued; or
 - (ii) the conveyance of a disabled person by an organisation to which the authority was issued; and
 - (c) the driver complies with the conditions of use of the permit.
- (2) The driver may park continuously on a length of road, or in an area, to which a parking control sign applies for an unlimited period of time.

26F Parking in ticket parking areas

- (1) A driver must not park in a ticket parking area unless a current parking ticket is displayed on the dashboard of the vehicle in a manner that the ticket's date and expiry time are clearly visible to persons outside the driver's vehicle.

Penalty: 5 penalty units.

- (2) A ***ticket parking area*** is a parking area designated by one or more parking control signs where information on the sign or signs includes the word 'TICKET', but does not include any part of the parking area in which the parking of vehicles is prohibited by another provision of these Regulations.
- (3) A driver does not contravene subregulation (1) if the driver parks in a ticket parking area before obtaining a parking ticket, so long as the driver obtains and displays a current parking ticket in accordance with this regulation immediately after parking the driver's vehicle.
- (4) A driver must not allow the driver's vehicle to remain parked in a ticket parking area after the expiry of the parking ticket displayed in or on the vehicle.

Penalty: 5 penalty units.

-
- (5) A driver must not allow the driver's vehicle to remain parked in a ticket parking area for more than the period of time indicated on the parking control sign or signs that designate the area as the maximum time for which a vehicle may be parked in the area.

Penalty: 5 penalty units.

Note For how a period of time is indicated, see subregulations 22B (2) and (3).

- (6) A driver who parks in a ticket parking area does not contravene this regulation if:
- (a) the driver parks for a period not exceeding the period (if any) for which no fee is payable for parking in the area; or
 - (b) the driver parks outside the controlled parking hours for the area; or
 - (c) regulation 26E applies to the driver.
- (7) Nothing in this regulation prevents a driver from parking in different parts of the same ticket parking area while displaying the same parking ticket (if the ticket has not expired).
- (8) This regulation does not apply to the rider of a motor cycle.
- (9) An offence against subregulation (1), (4) or (5) is an offence of strict liability.

26G Stopping or parking in restricted access area

- (1) A driver must not stop or park in a restricted access area unless the driver satisfies the conditions mentioned in regulation 26H for stopping or parking that apply to the restricted access area.

Penalty: 5 penalty units.

- (2) A ***restricted access area*** is a parking area to which a parking control sign applies that permits a driver to stop or park in the area only if particular conditions are satisfied.
- (3) An offence against subregulation (1) is an offence of strict liability.

26H Restricted access areas and conditions for stopping or parking in them

The kinds of restricted access areas, and the conditions for stopping or parking in them, are set out in the following table.

Item	Kind of restricted access area	Conditions for stopping or parking in the area
1	Loading zone	1.1 The driver is driving a vehicle that: (a) is dropping off, or picking up, goods; or (b) if a parking control sign with the words ‘authorised deliveries only’ on it applies to the parking area — is dropping off goods that are for the Trust or another occupant of Trust land 1.2 The driver must not stay continuously in the parking area for longer than: (a) 30 minutes; or (b) if information on a parking control sign applying to the parking area indicates another time — the indicated time

Item	Kind of restricted access area	Conditions for stopping or parking in the area
2	Drop off/pick up zone	2.1 The driver is driving: (a) a vehicle that is dropping off, or picking up, passengers; or (b) a vehicle that a person is getting into or out of or getting on or off 2.2 A driver must not stay continuously in the parking area for longer than: (a) 5 minutes; or (b) if information on a parking control sign applying to the parking area indicates another time — the indicated time
3	Reserved parking zone	The driver's vehicle is authorised by the Trust to stop or park in the parking area
4	Authorised access zone	The driver's vehicle is authorised by the Trust to stop or park in the parking area
5	Parking area for people with disabilities	Regulation 26E applies to the driver
6	Parking area for long vehicles	The vehicle is of the kind covered by a parking control sign that applies to the parking area
7	Motor cycle parking area	The vehicle is a motor cycle

26I Parking within parking spaces

- (1) A driver must not park a vehicle in a parking space in a way that:
- (a) any part of the vehicle lies over the road markings by which the parking space is indicated; or
 - (b) is not in accordance with information on a parking control sign that applies to the parking space.

Penalty: 5 penalty units.

Examples for paragraph (b)

1 If a parking control sign that applies to a parking space includes the words 'park rear to kerb', or similar words, a vehicle is not parked in accordance with the information on the sign unless the vehicle is parked so that the rear of the vehicle is nearest the kerb.

2 If a parking control sign that applies to a parking space includes words indicating that a vehicle must be parked at a particular angle to the kerb, a vehicle is not parked in accordance with the information on the sign unless the vehicle is parked at an angle to the kerb as near as practicable to the angle mentioned on the sign.

Note **Vehicle** includes a trailer: see definition of **vehicle** in regulation 3.

- (2) A driver of a vehicle that includes a trailer must not detach the trailer from the vehicle so as to leave the trailer in a parking space in a way that:
- (a) any part of the trailer lies over the road markings by which the parking space is indicated; or
 - (b) is not in accordance with information on a parking control sign that applies to the parking space.

Penalty: 5 penalty units.

Note Drivers of vehicles with trailers should park in a long vehicle parking area.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

[16] Regulation 27

omit

The Trust

insert

- (1) The Trust

[17] Regulation 27

insert

- (2) The Trust must allocate a ranger identification number to a person appointed as a ranger.

[18] After paragraph 29 (2) (b)

substitute

- (b) the person's ranger identification number; and

[19] Subregulation 33 (4)

omit

direction

insert

order

[20] Regulation 35, heading

substitute

**35 Removal of certain vehicles and abandoned property
from Trust land**

[21] Subregulation 35 (1)*substitute*

- (1) This regulation applies to the following (**property**):
- (a) a vehicle mentioned in subregulation 34 (1), the driver of which:
 - (i) fails to comply with a direction mentioned in subregulation 34 (1); or
 - (ii) cannot be found after such inquiries by a ranger as are reasonable in the circumstances;
 - (b) any property on Trust land (including any vehicle, vessel, watercraft, structure or materials) that a ranger believes, on reasonable grounds, to have been abandoned.
- (1A) A ranger (with whatever assistance is reasonably necessary) may move property to a place on Trust land or some other place.

[22] Subregulation 35 (3)*substitute*

- (3) If the owner of the property cannot be identified, the steps may include publishing, in a newspaper circulating generally in an appropriate place, an advertisement that includes:
- (a) a description of the property; and
 - (b) the date when, and location of the Trust land from which, the property was removed.
- (3A) For subregulation (3), an **appropriate place** is:
- (a) if the property is a motor vehicle registered in a State or Territory — that State or Territory; or
 - (b) in any other case — New South Wales.

[23] Subregulation 35 (8)*omit*

[24] Regulation 40B, definitions of *infringement notice* and *Trust officer*

omit

[25] Subregulation 40C (1)

omit

Division 2.1 or Division 3.2

insert

Division 2.1, 2.3 or 3.2

[26] Paragraph 40F (1) (c)

substitute

(c) state the ranger identification number of the ranger who issued the notice; and

[27] Paragraph 40F (1) (e)

omit

40G (3) (b)

insert

40G (4) (b)

[28] Subregulation 40G (4)

omit

may by

insert

may be

[29] Paragraph 40G (4) (c)*omit*

vessel.

insert

vessel; or

[30] After paragraph 40G (4) (c)*insert*

- (d) if a statutory declaration under subregulation 24A (2) has been given to a Trust officer — by serving the notice personally on the person named in the statutory declaration as being the person in charge of the vehicle at the time of the alleged offence or posting it to the address of the person given in the statutory declaration.

[31] After subregulation 40G (4)*insert*

- (5) A person must not remove, deface or interfere with an infringement notice placed on a vehicle or vessel under paragraph (4) (b) unless the person is:
- (a) in charge of the vehicle or vessel; or
 - (b) authorised to do so by the person in charge of the vehicle or vessel.

Penalty: 2 penalty units.

[32] Paragraph 40H (b)*substitute*

- (b) if an extension of time in which to pay the penalty is granted — within the extension period granted; or

[33] After subregulation 40I (4)

insert

- (5) A Trust officer may also grant an extension of time to pay a penalty specified in an infringement notice without an application having been made if he or she believes it is appropriate to do in all the circumstances of the case.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.