

E-ADVICE

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VEHICLE REGISTRATION REQUIREMENTS

This e-advice has been written to assist brokers in determining whether statutory obligations in each State and Territory require specific vehicles to be registered for certain use.

All general liability insurance policies contain an exclusion which provides that the policy will not respond to loss or damage (or at least personal injury) caused by a motor vehicle that is:

- registered; or
- should have been registered at law.

The reasoning behind this exclusion is that if a vehicle is registered or should have been registered at law, any loss or damage caused by that vehicle should be covered by the vehicle's Compulsory Third Party insurance policy.

Since an unregistered vehicle does not have the benefit of Compulsory Third Party insurance, and the general insurance policy will not operate if the vehicle should have been registered, the registration requirements are of critical importance.

In all States and Territories in Australia registration is required for standard motor vehicles such as cars, trucks or vans which intend to use the public road system.

However, in certain circumstances the registration requirements for particular vehicles are not as straight forward. Examples include forklifts used in areas which the public has access to or the use of golf carts on public golf courses.

There registration requirements vary in each State and Territory. Close consideration should be given to the applicability of the law to the specific circumstances.

In the event of uncertainty it would be prudent for insureds to seek registration in the absence of specific advice to the contrary from the relevant State or Territory Transport Authority.

MORE INFORMATION

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ATTACHMENT 1

VICTORIA VEHICLE REGISTRATION REQUIREMENTS: CURRENT AS AT 20 OCTOBER 2014

Background

- 1 All general liability insurance policies contain an exclusion which provides that the policy will not respond to loss or damage caused by a motor vehicle that is:
 - 1.1 registered; or
 - 1.2 should be registered at law.
- 2 The reasoning behind this exclusion is that if a vehicle is registered or should be registered at law, any loss or damage caused by that vehicle should be covered by the vehicle's Compulsory Third Party (CTP) insurance policy.
- 3 The impact of this exclusion is that the policy will not provide liability protection for any claim involving a vehicle that is not, but should have been, registered. Essentially, the policy will not respond if a CTP policy should respond or where the nominal defendant should defend the claim in the absence of a CTP insurer.
- 4 There are varying laws in each State and Territory about which vehicles must be registered and when. These rules can be difficult to apply to vehicles that are not usually used on public roads, such as forklifts.
- 5 This document summarises the current position in Victoria.

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When to register

- 6 All motor vehicles must be registered to be allowed on public roads in Victoria. Therefore, whether a vehicle is required to be registered depends on:
 - 6.1 the specifications of the vehicle; and
 - 6.2 where the vehicle is intended to be used.

Registration based on the specifications of the vehicle

- 7 There are four broad categories of vehicles required to be registered in Victoria if they are to be used on public roads:
 - 7.1 Standard Motor Vehicles: this category includes vehicles such as cars, trucks, vans, motorcycles and buses to be used on public roads.
 - 7.2 Trailers: any vehicle or trailer used for commercial use or designed or converted to be towed by a motor vehicle on public roads. This includes vehicles such as caravans, semi-trails and boat trailers.

- 7.3 Recreational motorcycles: motorcycles intended for use on local and forest roads outside built up areas but not permitted on freeways, state highways, and main and tourist roads.
- 7.4 Miscellaneous Vehicles: if a vehicle has a power output of more than 200 watts, it is considered a motor vehicle and must be registered to be driven on public roads. This category may include vehicles such as tractors, cranes, street sweepers and road graders.

Registration based on where the vehicle is intended to be used

8 Under the *Road Safety Act 1986* (Vic) (**the Act**):

8.1 **Road** means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.

8.2 **Road related area** means:

8.2.1 an area that divides a road;

8.2.2 a footpath or nature strip adjacent to a road;

8.2.3 an area that is open to the public and is designated for use by cyclists or animals;

8.2.4 an area that is not a road and that is open to or used by the public for driving, riding or parking motor vehicles; or

8.2.5 a place that is a road related area by virtue of a declaration -

but does not include a place that is not a road related area by virtue of a declaration.

9 Clearly, dedicated public roads are roads for the purposes of the Act.

10 Not as clear is whether areas such as factories on private land are caught.

11 The threshold test is that an area cannot be a road if it is not 'open to and used by' the public.

12 Any area which is part of private property and is not open to the public is not a road or a road related area. However, any area that is private property (or part of it) but is also open to the public may be a road or road related area.

13 However, it can only be one of these if it is either of the following:

13.1 an area developed for, or has as one of its main uses, the driving or riding of motor vehicles by the public. This area will be a road.

13.2 an area that is open to or used by the public for driving, riding or parking vehicles. This area will be a road related area.

14 This means that most private property will not be a road, because the property itself is not an area designed for use by the public.

15 However, some parts of private property may be a road related area, if that property is open to the public. The parts of the property open for public use for driving, riding or parking vehicles will be a road related area.

16 This means that:

- 16.1 private roads that are open for public use, say for access to one private property through another will be roads.
 - 16.2 public car parks on private property will be road related areas.
 - 16.3 public access areas on private property, such as loading docks, will be road related areas.
- 17 It is clear that an area of private land that the public cannot drive, ride or park vehicles is not a road or a road related area.
- 18 On this basis, just because vehicles are being driven on part of private land and the public may come on to that part of the land does not make that area a road or road related area. It can only be so if that part of the land can be used by the public for driving, riding or parking vehicles.

Vehicles exempt from registration

- 19 Certain vehicle types which are used in certain circumstances are exempt from requiring registration. Such exemptions include:
- 19.1 a trailer that is used exclusively as an agricultural implement;
 - 19.2 trailers carrying harvesting combs;
 - 19.3 bulk field bins for holding grain;
 - 19.4 trailers constructed and used exclusively for the carriage of bulk fruit bins;
 - 19.5 trailers (other than trailers specifically built to carry a boat) that is not used in the course of trade and:
 - 19.5.1 weighs less than 200 kilograms empty;
 - 19.5.2 is not wider than the vehicle towing it;
 - 19.5.3 is not more than three metres long.
 - 19.6 trailers that are being towed by a registered tow truck; and
 - 19.7 motor vehicles being towed on a highway: the number plate of the towing vehicle must be clearly visible when towing an unregistered vehicle.

How to register?

- 20 A vehicle can only be registered in Victoria under the standard registration process if it complies with the Vehicle Standards for registration and the Australian Design Rules.
- 21 VicRoads provide Conditional Registration or unregistered vehicle permits for vehicles that do not meet standards for registration to access the public road system on a restricted basis.

21.1 ***Conditional Registration***

Conditional Registration should be utilised by vehicles which do not comply with the Vehicle Standards for registration or the Australian Design Rules, but intend to be used on roads or in road related areas.

The following links are to information sheets on Vehicle Standards Information and on the Australian Design Rules.

<https://www.vicroads.vic.gov.au/safety-and-road-rules/vehicle-safety/vehicle-standards-information>

and

<https://www.vicroads.vic.gov.au/~media/files/documents/safety%20and%20road%20rules/vsi22.ashx>

VicRoads will issue conditions appropriate to compensate for the vehicle's deficiencies. VicRoads has the discretion to issue any reasonable conditions to ensure the safety of all road and road related area users.

The various conditions are contained on the sheet found on the below link.

<https://www.vicroads.vic.gov.au/registration/new-registration/register-non-compliant-vehicles/vehicles-non-compliant-with-australian-standards>

A transport accident charge (**TAC charge**) (provided by the Transport Accident Commission) is included with any Conditional Registration. Transport accident charges are used to pay for treatment and support services for people injured in transport accidents.

The TAC Charge for a motor vehicle varies according to the type/use of the vehicle (class) and where it is usually kept and whether it is owned by an eligible pensioner.

Please see the below link for further information on the TAC Charge.

<https://www.vicroads.vic.gov.au/registration/registration-fees/about-the-transport-accident-commission-tac-charge>

21.2 ***Unregistered vehicle permits (UVPs)***

UVPs are issued for unregistered vehicles to allow them to use public roads for a specific purpose for a period of up to 28 days with conditions. In some circumstances, construction vehicles may obtain an UVP for a period of up to 12 months.

<https://www.vicroads.vic.gov.au/registration/limited-use-permits/unregistered-vehicle-permits>

When driving with an UVP, the driver is covered by the TAC charge. However, this CTP insurance only covers the driver on roads or road related areas, not on private property.

21.3 ***Forklifts***

Forklifts are included in the *Road Safety (Vehicles) Regulations 2009 (Vic)* (**the Regulations**) as a special purpose vehicle. A special purpose vehicle is a light motor vehicle built or permanently modified for a purpose other than the carriage of goods or passengers.

Special purpose vehicles are classified into various classes and, in each class they are further classified into various categories depending on the relevant vehicle's mass and dimension. Details of the mass and dimension limits and operating conditions are set out in Schedule 7 of the Regulations.

Depending on their classification, special purpose vehicles may be eligible for Conditional Registration which restricts use on public roads. The types of operating and permit conditions issued to special purpose vehicles depend on the vehicle's class and category.

Vehicles that do not comply with the mass and dimension limits may still be able to use the road network under permit issued by VicRoads by contacting the Transport Safety Services Statewide Permit Group, the details are contained in the below link:

<https://www.vicroads.vic.gov.au/business-and-industry/heavy-vehicle-industry/heavy-vehicle-access-permits>

According to VicRoads, generally forklifts can be registered with VicRoads. Registration can be for up to 12 months and may be subject to conditions.

21.4 ***Golf carts***

In Victoria golf carts are not defined as a motor vehicle. Subsequently, golf carts are not able to obtain any form of registration. Golf carts may travel roads or road related areas provided that they do not travel more than two kilometres from the original location. If a golf cart breaches this rule penalties are enforceable. Despite not being defined as a motor vehicle golf carts are still required to follow Traffic Regulations.

Conclusion

- 22 Whether a vehicle is required to be, or is capable of being registered will depend on:
 - 22.1 where the vehicle is intended to be used; and
 - 22.2 the specifications of the vehicle.
- 23 As a general rule, when considering the position of business owners, if a vehicle the business owns will be driven on a public road or on any part of private property that the public (as opposed to employees or contractors of the land owner/occupier) will drive, the vehicle must be registered.
- 24 The type of vehicle and the intended use of the vehicle will dictate whether the vehicle can be registered and the type of registration that should be sought.
- 25 In the event of uncertainty regarding the application of the law to the relevant circumstances it would be prudent to register the vehicle in the absence of specific advice to the contrary from VicRoads.

ATTACHMENT 2

QUEENSLAND VEHICLE REGISTRATION REQUIREMENTS: CURRENT AS AT 20 OCTOBER 2014

Background

- 1 All general liability insurance policies contain an exclusion which provides that the policy will not respond to loss or damage caused by a motor vehicle that is:
 - 1.1 registered; or
 - 1.2 should be registered at law.
- 2 The reasoning behind this exclusion is that if a vehicle is registered or should be registered at law, any loss or damage caused by that vehicle should be covered by the vehicle's Compulsory Third Party (CTP) insurance policy.
- 3 The impact of this exclusion is that the policy will not provide liability protection for any claim involving a vehicle that is not, but should have been, registered. Essentially, the policy will not respond if a CTP policy should respond or where the nominal defendant should defend the claim in the absence of a CTP insurer.
- 4 There are varying laws in each State and Territory about which vehicles must be registered and when. These rules can be difficult to apply to vehicles that are not usually used on public roads, such as forklifts.
- 5 This document summarises the current position in Queensland.

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When to register

- 6 Under section 11 of the *Transport Operations (Road Use Management - Vehicle Registration) Regulation 2010* (Qld) (**the Regulations**), a person must not use, or permit to be used, on a road a vehicle that is not a registered vehicle unless an exception applies.
- 7 The meaning of road is stated in the *Transport Operations (Road Use Management) Act 1995* (Qld) (**the Act**) to include:
 - 7.1 a busway under the *Transport Infrastructure Act 1994*;
 - 7.2 an area that is:
 - 7.2.1 open to or used by the public and is developed for, or has as one of its uses, the driving or riding of motor vehicles, whether on payment of a fee or otherwise; or
 - 7.2.2 dedicated to public use as a road; but
 - 7.2.3 does not include an area declared under a regulation not to be a road.
- 8 The Act provides examples of a road include a bridge, cattle grid, culvert, ferry, ford, railway crossing, shopping centre car park, tunnel or viaduct.

- 9 Therefore, whether a vehicle is required to be registered depends upon:
- 9.1 whether the area of proposed use classifies as a road; and
 - 9.2 whether the proposed use of the vehicle falls into an exemption.

Classification of an area as a road

- 10 Whether the area of land classifies as a road is subsequently of critical importance. A salient consideration when determining whether an area constitutes a road is whether the area is available for public use.
- 11 Clearly, dedicated public roads are roads for the purposes of the Act.
- 12 Not as clear is whether areas such as factories on private land are caught.
- 13 The threshold test is that an area cannot be a road if it is not 'open to and used by' the public.
- 14 Private property which the public does not have access to drive, ride or park vehicles will not classify as a road, because the property will not be driven on or ridden on by the public.
- 15 However, some parts of private property may be a road if that property is open to the public. The parts of the property open for public use for driving, riding or parking vehicles will be a road.
- 16 If a vehicle will be driven on any part of private property that the public (as opposed to employees or contractors of the land owner/occupier) will also have access to, the land will be classified as a road and vehicles driven on that land should be registered.

Exemptions

- 17 Section 11 of the Regulations lists a number of exceptions which alleviate the necessity to register a vehicle. For the purposes of this note the most pertinent is section 11(i): the vehicle is an exempt vehicle.
- 18 The definition of exempt vehicle is found in section 4 of the Regulations and lists specific vehicles not requiring registration.
- 19 An exempt vehicle is:
- 19.1 an agricultural implement being towed by:
 - 19.1.1 an agricultural machine suitably matched to the implement;
 - 19.1.2 another vehicle of a suitable size for towing the implement;
 - 19.2 a trailer being towed by:
 - 19.2.1 an agricultural machine that is being used for its intended agricultural purpose; or
 - 19.2.2 a conditionally registered vehicle with limited access registration;
 - 19.3 a motorised golf buggy or other motorised machinery being used on a golf course or on a golf course car park, or a motorised golf buggy being used for directly crossing a road dividing a golf course;
 - 19.4 a ride-on mower, other than a ride-on mower that is an agricultural machine, that is being used for mowing, and is:
 - 19.4.1 directly crossing a road;

- 19.4.2 crossing from 1 road-related area to another road-related area; or
- 19.4.3 on a road-related area;
- 19.5 walking speed equipment that is on a road only for:
 - 19.5.1 loading it onto, or unloading it from, another vehicle; or
 - 19.5.2 repositioning it at a work site;
- 19.6 a low-powered motor vehicle;
- 19.7 a vehicle that is not a motor vehicle or a trailer;
- 19.8 a vehicle that is not a motor vehicle or trailer;
- 19.9 a vehicle being towed by a tow truck;
- 19.10 a racing vehicle being used on a racing track or in a related area for a racing track;
- 19.11 a motorbike being used in freestyle motocross in a freestyle motocross area;
- 19.12 a motorbike being used in an observed trial in an observed trial area;
- 19.13 drawn plant being towed by a conditionally registered vehicle of a size suitable for towing the plant;
- 19.14 a motorised wheelchair being used by a person who:
 - 19.14.1 does not usually reside in Queensland; or
 - 19.14.2 has resided in Queensland for not more than 14 days; or
- 19.15 an unregistered motor vehicle that is dealer's stock being used on the dealer's premises.

20 Therefore, registration is required if a vehicle does not fall into an exemption in either section 4 or 11 of the Regulations, and if the vehicle is intended to be used on land which classifies as a road. However, if the vehicle does not meet Vehicle Standards yet requires access to roads, Conditional Registration or Unregistered Vehicle permits will be relevant.

Registration based on the specifications of the vehicle

- 21 The following vehicles are examples of vehicles eligible for registration under the standard process:
- 21.1 **Standard Motor Vehicles:** this category includes vehicles such as cars, trucks, vans, motorcycles and buses to be used on public roads.
 - 21.2 **Trailers:** any vehicle or trailer used for commercial use or designed or converted to be towed by a motor vehicle on public roads. This includes vehicles such as caravans, semi-trails and boat trailers.
 - 21.3 **Miscellaneous Vehicles:** if a vehicle has a power output of more than 200 watts, it is considered a motor vehicle and must be registered to be driven on public roads.

How to register

- 22 A vehicle can only be registered in Queensland under the standard registration process if it complies with the Vehicle Standards for registration and the Australian Design Rules.

23 It is possible for non-standard vehicles which do not meet the standards for registration to gain access to public roads through Conditional Registration or an Unregistered Vehicle Permit (UVP).

23.1 ***Conditional Registration***

Conditional Registration provides access to roads for vehicles which do not comply with the Vehicle Standards but intend to be used on roads. The benefit of Conditional Registration is that it provides access to Queensland roads and the protection of CTP insurance.

Examples of vehicles which do not comply with Vehicle Standards include:

- forklifts;
- agricultural vehicles; and
- construction and maintenance vehicles.

There are three categories of road access allowable by Conditional Registration:

- Limited access registration: vehicles permitted to be used within a stated area for a stated purpose. This may include vehicles restricted to worksites and designated areas;
- Zone access registration: vehicles permitted to travel for specified distances within a stated zone in a single journey; and
- Unrestricted access registration: vehicle registration which is not limited access registration or zone access registration. Vehicles may still have conditions that apply to the time of operation.

23.2 ***Golf carts***

The Department of Transport and Main Roads has introduced the *Guideline for Conditionally Registered Vehicles in Queensland*, Form 17. This guideline outlines the conditions and restrictions of use of vehicles which require Conditional Registration. This Guideline includes golf carts as recreational vehicles which should have Conditional Registration.

However as stated above, section 4(c) of the Regulations provides an exemption from registration for golf carts which are used on a golf course or on a golf course car park or used for directly crossing a road dividing a golf course. Registration will not be required for a golf cart used in this way.

Therefore, golf carts which are used for purposes other than those listed in the section 4 exemption, will require Conditional Registration. An example of a golf cart requiring Conditional Registration is if the golf cart is being used on resorts to transport people.

23.3 ***Forklifts***

Since forklifts do not comply with the Vehicle Standards they are not able to be registered using the standard registration process. Business owners should obtain Conditional Registration if forklifts require access to areas which classify as roads.

However registration will not be required if a forklift is intended to be solely used on private property.

23.4 ***Unregistered Vehicle Permits (UVPs)***

Section 60 of the Regulations provide for UVPs. An UVP may be issued by the Executive authorising the use of an unregistered vehicle on a road under certain conditions.

To apply for a permit a completed application form is required to be submitted and a Class 22 compulsory third party insurance certificate must have been issued. The compulsory third party insurance certificate must be issued in the applicant's name and must cover the vehicle or motorbike for the duration of the permit.

Conclusion

- 24 As a general rule, when considering the position of business owners the following matters must be considered:
 - 24.1 whether the vehicle is intended to be used in areas classified as roads;
 - 24.2 whether the vehicle falls into an exemption alleviating the requirement of registration; and
 - 24.3 whether the vehicle complies with the Vehicle Standards, and if it does not, alternative options for ensuring insurance coverage remains.
- 25 In the event of uncertainty regarding the application of the law to the relevant circumstances it would be prudent to register the relevant vehicle in the absence of specific advice to the contrary from the Queensland Transport and Main Roads Department.

ATTACHMENT 3

NEW SOUTH WALES VEHICLE REGISTRATION REQUIREMENTS: CURRENT AS AT 20 OCTOBER 2014

Background

- 1 All general liability insurance policies contain an exclusion which provides that the policy will not respond to loss or damage caused by a motor vehicle that is:
 - 1.1 registered; or
 - 1.2 should be registered at law.
- 2 The reasoning behind this exclusion is that if a vehicle is registered or should be registered at law, any loss or damage caused by that vehicle should be covered by the vehicle's Compulsory Third Party (CTP) insurance policy.
- 3 The impact of this exclusion is that the policy will not provide liability protection for any claim involving a vehicle that is not, but should have been, registered. Essentially, the policy will not respond if a CTP policy should respond or where the nominal defendant should defend the claim in the absence of a CTP insurer.
- 4 There are varying laws in each State and Territory about which vehicles must be registered and when. These rules can be difficult to apply to vehicles that are not usually used on public roads, such as forklifts.
- 5 This document summarises the current position in New South Wales.

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- 6 Under section 68 of the *Road Transport Act 2013* (NSW) (**the Act**), a person must not use an unregistered registrable vehicle on a road.
- 7 Section 4 of the Act states:
 - 7.1 **Road** means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.
 - 7.2 **Road related area** means:
 - 7.2.1 an area that divides a road;
 - 7.2.2 a footpath or nature strip adjacent to a road;
 - 7.2.3 an area that is open to the public and is designated for use by cyclists or animals;
 - 7.2.4 an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles;
 - 7.2.5 a shoulder of a road; or

7.2.6 any other area that is open to or used by the public and that has been declared under section 18 to be an area to which specified provisions of this Act or the statutory rules apply.

8 In determining whether a vehicle should be registered the following issues are important:

8.1 whether the area of proposed use classifies as a road or a road related area; and

8.2 whether the specifications of the vehicle requires the vehicle to be registered.

Registration based on specifications of the vehicle

9 All vehicles which comply with the Australian Design Rules and the New South Wales Vehicle Standards which are intended to be used on roads or road related areas are required to be registered under the standard registration process.

10 The following vehicles are examples of vehicles eligible for registration under the standard process:

10.1 Standard Motor Vehicles: vehicles such as cars, trucks, vans, motorcycles and buses to be used on public roads.

10.2 Trailers: any vehicle that is towed by a motor vehicle. This includes vehicles such as caravans, semi-trails and boat trailers.

10.3 Miscellaneous Vehicles: if a vehicle has a power output of more than 200 watts, it is considered a motor vehicle and must be registered to be driven on public roads.

Registration based on where the vehicle is intended to be used

11 Clearly, dedicated public roads are roads for the purposes of the Act.

12 The threshold test is that an area cannot be a road if it is not 'open to and used by' the public.

13 Private property will not be a road, because the property itself is not an area designed for use by the public.

14 However, some parts of private property may be a road if that property is open to the public. The parts of the property open for public use for driving, riding or parking vehicles will be a road.

15 This means that:

15.1 private roads that are open for public use, say for access to one private property through another will be roads.

15.2 public car parks on private property will be road related areas.

15.3 public access areas on private property, such as loading docks, will be road related areas.

16 If a vehicle will be driven on any part of private property that the public (as opposed to employees or contractors of the land owner/occupier) are able to drive, ride or park vehicles, the land will be classified as public and vehicles driven on that land should be registered.

17 On this basis, just because vehicles are being driven on part of private land and the public may come on to that part of the land does not make that area a road or road related area. It can only be classified as a road or a road related area if that part of the land can be used by the public for driving, riding or parking vehicles.

How to register

- 18 A vehicle can only be registered in New South Wales under the standard registration process if it complies with construction and equipment requirements of the Australian Design Rules and Vehicle Standards.
- 19 It is possible for non-standard vehicles which do not meet the requirements for registration to gain access to the roads through Conditional Registration or an Unregistered Vehicle Permit UVP.
- 20 When applying for a Conditional Registration or an UVP, CTP insurance is included as part of the registration or permit costs sold by the Road and Maritime Services (**RMS**).

20.1 *Conditional Registration*

Conditional Registration is only available to vehicles which do not comply with the Australian Design Rules. Conditional Registration allows such vehicles limited access to the road network to perform specific functions.

Only vehicles listed in the Conditional Registration Guide (**Vehicle Sheets**) may be registered under the Conditional Registration scheme. The following link sets out all the vehicles which may be registered under the Conditional Registration scheme:

<http://www.rms.nsw.gov.au/roads/registration/get-nsw-registration/vehicle-sheets/index.html>

Some examples of vehicles which are eligible for Conditional Registration include:

- forklifts;
- golf buggies;
- agricultural vehicles; and
- construction vehicles.

The RMS will impose operating conditions to conditionally registered vehicles to overcome the vehicle's deficiencies when using the road network.

The following link sets out the fees payable for registration and Conditional Registration in New South Wales:

<http://www.rms.nsw.gov.au/roads/registration/fees/index.html>

20.2 *Forklifts*

As mentioned above, Conditional Registration is necessary for forklifts intending to use areas which classify as roads or roads related areas. In order to be eligible for Conditional Registration a forklift must comply with the equipment and operation requirements set out in the Forklift Conditional Registration Guide:

<http://www.rms.nsw.gov.au/roads/registration/get-nsw-registration/vehicle-sheets/forklift.html>

20.3 *Golf carts*

Conditional Registration is also required for golf carts used in areas which classify as roads or road related areas. Since public golf courses and golf course car parks will classify as road related areas, golf carts used on public golf courses will require Conditional Registration.

The only instance where a golf cart will not require Conditional Registration is if it will be used solely on private property.

20.4 *Unregistered Vehicle Permits (UVPs)*

An UVP allows an unregistered vehicle to use the road network for a specific journey. It is valid for up to 28 days and provides limited access to the road network. An UVP is not to be used instead of full registration and is not intended to cover the regular use of a vehicle on roads or road related areas. Note, vehicles carrying a commercial load are not eligible for an UVP.

As mentioned above, CTP insurance is sold as part of the permit costs by the RTA. The cost of such insurance depends on the vehicle specifications obtaining the UVP and the circumstances in which the vehicle will be used on roads. It should be noted that the CTP insurance only covers use on roads and road related areas, not private property.

Conclusion

- 21 When considering the position of business owners, if a vehicle the business owns will be used on an area that the public (as opposed to employees or contractors of the land owner/occupier) will drive, ride or park, it is probable the area will classify as a road or road related area. Subsequently, some form of registration will be required.
- 22 The specifications of the vehicle will dictate whether the vehicle can be registered under the standard registration process or if Conditional Registration or an UVP should be sought.
- 23 In the event of uncertainty regarding the application of the law to the relevant circumstances it would be prudent to register the relevant vehicle in the absence of specific advice to the contrary from the RMS.

ATTACHMENT 4

TASMANIA VEHICLE REGISTRATION REQUIREMENTS: CURRENT AS AT 20 OCTOBER 2014

Background

- 1 All general liability insurance policies contain an exclusion which provides that the policy will not respond to loss or damage caused by a motor vehicle that is:
 - 1.1 registered; or
 - 1.2 should be registered at law.
- 2 The reasoning behind this exclusion is that if a vehicle is registered or should be registered at law, any loss or damage caused by that vehicle should be covered by the vehicle's Compulsory Third Party (CTP) insurance policy.
- 3 The impact of this exclusion is that the policy will not provide liability protection for any claim involving a vehicle that is not, but should have been, registered. Essentially, the policy will not respond if a CTP policy should respond or where the nominal defendant should defend the claim in the absence of a CTP insurer.
- 4 There are varying laws in each State and Territory about which vehicles must be registered and when. These rules can be difficult to apply to vehicles that are not usually used on public roads, such as forklifts.
- 5 This document summarises the current position in Tasmania.

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When to register

- 6 Under section 27(1) of the *Vehicle and Traffic Act 1999* (Tas) (**the Act**), a person must not use, or permit the use of, a motor vehicle or trailer on a public street unless the vehicle is registered under the Act.
- 7 Section 3 of the *Traffic Act 1925* (TAS) defines a **public street** as any:
 - 7.1 street;
 - 7.2 road;
 - 7.3 lane;
 - 7.4 thoroughfare;
 - 7.5 bridge;
 - 7.6 or place open to or used by the public;
 - 7.7 or to which the public have or are permitted to have access - whether on payment of a fee or otherwise.
- 8 Therefore, whether a vehicle requires registration depends upon:

- 8.1 the specifications of the vehicle; and
- 8.2 where the vehicle is intended to be used.

Registration based on the specifications of the vehicle

- 9 All vehicles which comply with the Australian Design Rules which are intended to be used on areas which classify as public streets are required to be registered under the standard registration process.
- 10 Vehicles which do not meet the Australian Design Rules but seek to use public streets may be eligible to receive Conditional Registration or an Unregistered Vehicle Permit (UVP).
- 11 The following vehicles are examples of vehicles eligible for registration under the standard process:
 - 11.1 **Standard Motor Vehicles:** this category includes vehicles such as cars, trucks, vans, motorcycles and buses to be used on public roads.
 - 11.2 **Trailers:** any vehicle or trailer used for commercial use or designed or converted to be towed by a motor vehicle on public roads. This includes vehicles such as caravans, semi-trails and boat trailers.
 - 11.3 **Miscellaneous Vehicles:** if a vehicle has a power output of more than 200 watts, it is considered a motor vehicle and must be registered to be driven on public roads.

Registration based on where the vehicle is intended to be used

- 12 Whether an area classifies as a public street clearly depends on whether the public have access to the area.
- 13 Clearly, areas that are streets, roads, lanes, thoroughfares, footpaths or bridges are public streets for the purposes of the Act.
- 14 Not as clear is whether areas such as golf courses that offer golf carts or factories on private land are caught.
- 15 Places which will also be classified as public streets include places open to or used by the public, which the public are able to access either on payment of fee or otherwise. Therefore, whether the public is able to access an area will have a determinative effect on its classification.
- 16 An area that is private property (or part of it) which is partially open to the public may be classified as a public street.
- 17 Since payment of a fee in return for access does not affect the classification of an area, the term public street is likely to encompass public golf courses, public amusement parks, and factories with a shopfront.
- 18 If a vehicle will be driven on any part of private property that the public (as opposed to employees or contractors of the land owner/occupier) will have access to, the land will be classified as a public street and vehicles driven on that land should be registered.
- 19 Section 27(3) of the Act provides the necessity of registration outlined in section 27(1) does not apply to:
 - 19.1 a vehicle of a class that is exempt from registration under this Act;

- 19.2 a vehicle for which a short term unregistered vehicle permit is in force authorising its use on a public street;
- 19.3 the use of a vehicle in circumstances in which its use is authorised by a trade plate; or
- 19.4 the use of a vehicle in circumstances in which the regulations permit its use without registration.

Exemptions

- 20 Certain vehicles do not require registration to be driven on the public streets in Tasmania. Despite a vehicle not requiring registration a compulsory third party insurance premium is payable if the vehicle is to be used on public streets. This is the case unless there is a notation 'MAIB Premium not required'.
- 21 Pursuant to the *Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2010* (NSW) (**the Regulations**), the following vehicles are exempt from registration:
 - 21.1 an agricultural implement towed by another vehicle 'MAIB Premium not required';
 - 21.2 a trailer towed by an agricultural machine operating as an agricultural machine 'MAIB Premium not required';
 - 21.3 a vehicle under tow by a registered tow truck operating as a tow truck;
 - 21.4 road construction plant owned by a council being defined as:
 - 21.4.1 an earth moving machine;
 - 21.4.2 a machine for compacting earth or road construction materials;
 - 21.4.3 a machine for laying or profiling road construction materials;
 - 21.4.4 used for the construction, repair or maintenance of roads.

How to register

- 22 A vehicle can only be registered in Tasmania under the standard process if the vehicle complies with the requirements set out in the Australian Design Rules.
- 23 Vehicles which do not meet the Australian Design Rules or vehicles which require conditions for any other reason, may gain access to areas which classify as public streets through Conditional Registration or an UVP.
- 24 In Tasmania CTP insurance is included in the registration costs for both Conditional Registration and UVPs.
 - 24.1 ***Conditional Registration***

Conditional Registration provides access to roads for vehicles which do not comply with Vehicle Standards but are intended to be used on roads. The conditions imposed may relate to the use of, or areas in which, the vehicle is used. Conditional Registration is available under various categories:

 - 24.1.1 Standard Conditional Registration: applicable for vehicles which do not comply with Australian Design Rules and are intended to be used on a road,

- 24.1.2 Club event registration: applicable for vehicles taking part in authorised vintage or street rod car club events. To apply, the individual must be a member of the authorised club.
- 24.1.3 Restricted registration: applicable for vehicles which travel short distances for particular purposes. Examples include:
- (a) vehicles towing a boat (used between a specified dwelling and launching ramp);
 - (b) driving an off-road vehicle within a designated area;
 - (c) driving a farm vehicle across a public road, with a maximum of 10kms;
 - (d) off-road recreational motor cycles for private use in approved recreation areas;
 - (e) golf buggies driven on golf courses divided by a public street; &
 - (f) vehicles used for infrequent transport associated with a factory, warehouse or mining site.
- 24.1.4 Concessional registration: involves a 40% motor tax rebate issued to heavy vehicles used for limited purposes on public streets. Examples include:
- (a) interchangeable trailers;
 - (b) three-axle buses; or
 - (c) farm vehicles.
- 24.1.5 Special purpose registration: applicable to vehicles whose primary purpose is not related to the carriage of goods which travels between sites to carry out specialised tasks. Such tasks may include:
- (a) lifting;
 - (b) moving;
 - (c) compressing;
 - (d) rolling or laying material; or
 - (e) the manufacture or processing of goods.
- 24.1.6 Special interest vehicle registration: applicable to vehicles used on a limited basis. Registrants pay a lower rate of motor tax and third party insurance than fully registered vehicles. This may include:
- (a) vehicles over 30 years of age;
 - (b) rally vehicles; or
 - (c) vehicles adapted and modified exclusively for charitable events.

24.2 ***Forklifts***

Forklifts which are wholly used on private property are not required to obtain any form of registration. However forklifts which require access to public streets are required to

obtain Conditional Registration. Eligibility for Conditional Registration is outlined in the following link:

<http://www.transport.tas.gov.au/registration/conditional/conditions>

24.3 *Short Term Unregistered Vehicle Permit*

A short term unregistered vehicle permit enables an unregistered vehicle to be used on a public street for a specified time and purpose where it is impractical or unreasonable for the vehicle to be registered. An UVP does not cover the vehicle for regular use on a public street and is not a substitute for full registration.

Possible reasons for issuing a permit include:

- Relocation: moving an unregistered vehicle from one location to another;
- Repair: moving an unregistered vehicle to a place of repair;
- Approved events: Such events may be required to obtain approval from the Registration and Licensing Branch.

A permit will be issued for the minimum number of days needed to undertake a journey.

Conclusion

- 25 As a general rule, when considering the position of business owners, if a vehicle that the business owns will be driven on a public street or on any part of private property that the public (as opposed to employees or contractors of land owner/occupier) will drive, some form of registration will be required.
- 26 The specifications of the vehicle will dictate whether the vehicle can be registered under the standard process or if Conditional Registration or a short term UVP should be sought.
- 27 In the event of uncertainty regarding the application of the law to the relevant circumstances it would be prudent to register the relevant vehicle in the absence of specific advice to the contrary from Tasmanian Transport.

ATTACHMENT 5

WESTERN AUSTRALIA VEHICLE REGISTRATION REQUIREMENTS: CURRENT AS AT 20 OCTOBER 2014

Background

- 1 All general liability insurance policies contain an exclusion which provides that the policy will not respond to loss or damage caused by a motor vehicle that is:
 - 1.1 registered; or
 - 1.2 should be registered at law.
- 2 The reasoning behind this exclusion is that if a vehicle is registered or should be registered at law, any loss or damage caused by that vehicle should be covered by the vehicle's Compulsory Third Party (CTP) insurance policy.
- 3 The impact of this exclusion is that the policy will not provide liability protection for any claim involving a vehicle that is not, but should have been, registered. Essentially, the policy will not respond if a CTP policy should respond or where the nominal defendant should defend the claim in the absence of a CTP insurer.
- 4 There are varying laws in each State and Territory about which vehicles must be registered and when. These rules can be difficult to apply to vehicles that are not usually used on public roads, such as forklifts.
- 5 This document summarises the current position Western Australia.

This document is general information only and designed to provide guidance to insurance brokers arranging liability policies. It applies as at the date referred to in the document title. It is not intended as advice about, and should not be relied on as advice about, particular circumstances. Specific legal advice should be obtained for each particular circumstance.

When to register

- 6 Section 15 of the *Road Traffic Act 1974 (WA)* (**the Act**) provides that a vehicle licence is required for vehicles prescribed in the regulations. Where a vehicle for which there is not a valid licence granted under the Act is used on any road, a responsible person for the vehicle and any person using the vehicle or causing or permitting such use commits an offence against this Act.
- 7 The Act provides:
 - 7.1 **Road** means any highway, road or street open to or used by, the public and includes every carriageway, footway, reservation, median strip and traffic island thereon.
- 8 Therefore, all vehicles which have a genuine need to cross or travel along one or more public roads must be registered. Whether an area is classified as a road is subsequently of critical importance.
- 9 Secondly, the specifications of the vehicle will have a bearing on whether the vehicle should follow the standard registration process or if an alternative process is more appropriate.

Registration based on where the vehicle is intended to be used

- 10 According to the Western Australia Driver Vehicle Services, vehicle registration is only required for vehicles which access and use roads which are part of the public road network.

- 11 This includes streets which appear in the Gazette, and other such areas which are used by the public in their capacity as a road. This rule is narrower than the registration requirements in most other states and territories.
- 12 Therefore, vehicles which are used on private property are clearly not required to be registered.
- 13 Areas which the public accesses but does not require the vehicle to cross or travel along a public road will not require vehicle registration.
- 14 For example, if golf carts are used solely on a public golf course, the golf cart will not require registration. However, if the golf cart is used on a golf course, and at some points crosses a public road or needs access to a road or street, then the golf cart will require some form of registration.
- 15 A similar example can be shown in terms of forklifts. If the forklift is used in an area such as a factory, which public vehicles attend to pick-up or drop-off supplies, the forklift will not require registration. However if at some point the forklift will travel upon a public road, or cross a public road for any reason, a form of registration will be required.
- 16 As a general rule, if a vehicle requires access to an area which is part of the public road network - whether it be a highway, normal road, street or laneway - the vehicle owner should closely consider the registration requirements.

Registration based on specifications of the vehicle

- 17 Registration under the standard process is applicable to vehicles which require access to areas that classify as a road or a road related area and which comply with the vehicle standards the *Road Traffic (Vehicle Standards) Regulations 2002 (WA)* (**the Standards**) and the Australian Design Rules.

The following vehicles are examples of vehicles eligible for registration under the standard process:

- 17.1 Standard Motor Vehicles: this category includes vehicles such as cars, trucks, vans, motorcycles and buses to be used on public roads.
- 17.2 Trailers: any vehicle or trailer used for commercial use or designed or converted to be towed by a motor vehicle on public roads. This includes vehicles such as caravans, semi-trailers and boat trailers.
- 17.3 Miscellaneous Vehicles: if a vehicle has a power output of more than 200 watts, it is considered a motor vehicle and must be registered to be driven on public roads.

How to register

- 18 Vehicles which do not comply with the Standards and Australian Design Rules may gain access to roads by alternative registration options such as Conditional Registration, seasonal vehicle registration or a temporary movement permit.

18.1 ***Conditional Registration***

As stated above, vehicles which do not comply with the Standards may seek conditional licensing to gain access to roads. Compulsory Third Party Insurance cover is included in the registration costs in obtaining Conditional Registration.

Conditional Registration is generally available for vehicles which are not designed primarily for on-road use, such as:

- Quad bikes;
- Tractors;
- Golf carts;
- Forklifts; and
- Non-compliant utility vehicles.

A conditional licence will only be issued if there is a legitimate need to access one or more public roads and if the Vehicle Safety and Standards Branch is confident such access can be performed safely.

Conditional Registration may impose certain conditions on the use of a vehicle in areas which classify as roads. These conditions may restrict the time of day the vehicle can be used or the specific places which the vehicle can be used.

The following link provides information on the process involved in obtaining conditional licensing:

<http://www.transport.wa.gov.au/licensing/license-my-vehicle-registration.asp>

The first step in acquiring conditional licensing is to attend a roadworthy examination at the Vehicle Safety and Standards Branch. Once this has been successfully passed an application must be lodged with the Driver and Vehicle Safety Centre.

18.2 ***Forklifts***

Since forklifts are included in the category of 'off-road vehicles' and do not comply with the Standards, conditional licensing is required in order for them to access roads.

Despite this, it must be remembered that forklifts will only require Conditional Registration if they cross or require access to the public road network. If forklifts are intended to be used in areas which will not under any circumstances encounter a public road or street, they can be used unregistered.

18.3 ***Seasonal Vehicle Licence***

Heavy vehicles (over 4,00 tonnes) which are used only for seasonal work may obtain a Seasonal Vehicle Licence. This allows for registration during the period of time the vehicle is in use. The registration must be renewed before the commencement of each season.

Seasonal work is defined as work which goes into hiatus for one or more periods each year, due to weather or economic factors. Examples of seasonal work include seeding, harvesting or cray fishing.

Similar to Conditional Registration, CTP insurance cover is included in the costs of obtaining a Seasonal Vehicle Licence.

18.4 ***Temporary Movement Permit***

A temporary movement permit allows an unregistered vehicle to be moved to be examined for the purposes of registration or repairs prior to registration. Temporary movement permits are only valid for 48 hours from the time of issue.

CTP insurance is included in the Temporary Movement Permit costs.

Conclusion

- 19 In considering whether a vehicle is required to be registered the primary consideration is the area the vehicle is intended to be used. If the vehicle will be used on areas which are part of the public road network (such as highways, streets or lanes), registration must be sought.
- 20 If however, the vehicle will not travel on, cross or encounter such areas under any circumstances, the vehicle is not required to be registered.
- 21 The type of vehicle will dictate whether registration should be sought under the standard process or if an alternative registration process is more appropriate.
- 22 In the event of uncertainty regarding the application of the law to the relevant circumstances it would be prudent to register the vehicle in the absence of specific advice to the contrary from Western Australia Department of Transport.

ATTACHMENT 6

SOUTH AUSTRALIA VEHICLE REGISTRATION REQUIREMENTS: CURRENT AS AT 20 OCTOBER 2014

Background

- 1 All general liability insurance policies contain an exclusion which provides that the policy will not respond to loss or damage caused by a motor vehicle that is:
 - 1.1 registered; or
 - 1.2 should be registered at law.
- 2 The reasoning behind this exclusion is that if a vehicle is registered or should be registered at law, any loss or damage caused by that vehicle should be covered by the vehicle's Compulsory Third Party (CTP) insurance policy.
- 3 The impact of this exclusion is that the policy will not provide liability protection for any claim involving a vehicle that is not, but should have been, registered. Essentially, the policy will not respond if a CTP policy should respond or where the nominal defendant should defend the claim in the absence of a CTP insurer.
- 4 There are varying laws in each State and Territory about which vehicles must be registered and when. These rules can be difficult to apply to vehicles that are not usually used on public roads, such as forklifts.
- 5 This document summarises the current position in South Australia.

This document is general information only and designed to provide guidance to insurance brokers arranging liability policies. It applies as at the date referred to in the document title. It is not intended as advice about, and should not be relied on as advice about, particular circumstances. Specific legal advice should be obtained for each particular circumstance.

- 6 Under section 9 of the *Motor Vehicles Act 1959* (SA) (**the Act**), a person must not drive an unregistered motor vehicle, or cause an unregistered motor vehicle to stand, on a road.
- 7 For this prohibition:
 - 7.1 **Road** means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving of motor vehicles.
- 8 Clearly, dedicated public roads are roads for the purposes of the Act.
- 9 The threshold test is that an area cannot be a road if it is not 'open to and used by' the public.
- 10 So any area which is part of private property and is not open to the public is not a road. However, any area that is private property (or part of it) but is also open to the public may be a road.
- 11 However, some parts of private property may be a road, if that property is open to the public. The parts of the property open for public use for driving, riding or parking vehicles will be a road.
- 12 It is clear that an area of private land that the public cannot drive ride or park vehicles is not a road.
- 13 If a vehicle will be driven on any part of private property that the public (as opposed to employees or contractors of the land/occupier) will have access to, the land will be classified as public and vehicles driven on that land should be registered.

- 14 Therefore, whether a vehicle is required to be registered depends upon:
- 14.1 whether the area of proposed use classifies as a road or road related area; and
 - 14.2 whether the vehicle type and the proposed use of the vehicle falls into an exemption.

Exemptions

15 Division 2 of the Act provides a number of exemptions which alleviate the requirement to register a vehicle.

16 Vehicles that are exempt from registration include:

- 16.1 an unregistered vehicle which bears trade plates issued under the Act;
- 16.2 a vehicle driven for the purpose of loading it onto, or unloading it from, a transporter, and the vehicle is not driven more than 500 metres from the transporter;
- 16.3 an unregistered trailer, agricultural implement or prescribed agricultural machine may be towed on roads by a registered motor vehicle;
- 16.4 a self-propelled wheelchair or other motor vehicle of a prescribed class (not being a motor car);
- 16.5 a motor vehicle driven for the purpose of taking measures for extinguishing or controlling a fire that is causing or threatening to cause loss of life or injury or damage to persons, animals or property;
- 16.6 a motor vehicle driven on a wharf for the purposes of loading or unloading cargo; and
- 16.7 a self-propelled lawn mower driven for the purpose of mowing lawn or grass or to or from a place at which it is to be, or has been, used for that purpose.
- 16.8 ***Golf Carts***

Section 8 of the *Motor Vehicles Regulations 2010* (SA) permits a golf cart to be driven on roads or road related areas without registration or insurance if:

- the vehicle will not be driven on a road which does not form part of a golf course except to travel by the shortest available route from one part of a golf course to another part of the golf course;
- the vehicle will not be used, wholly or partly, for the purpose of hiring it to another person for fee or reward;
- the vehicle will not be driven except by the owner of the vehicle or a person authorised by the owner of the vehicle; and
- a policy of public liability insurance indemnifying the owner and any authorised driver of the vehicle in an amount of \$10, 000 000 in relation to death or bodily injury caused by, or arising out of, the use of the vehicle must be in force.

Therefore registration will be required if a golf cart is used for a purpose which does not comply with the conditions. For example, golf carts used on resorts for transporting people will attract the requirements of registration as a Special Purpose Vehicle.

How to register

17 A vehicle can only be registered under the standard registration process in South Australia if the vehicle complies with the Australian Design Rules and *the Road Traffic Act 1961* (SA).

17.1 *Special Purpose Vehicles*

Vehicles that do not conform with the Australian Design Rules or the *Road Traffic Act 1961* (SA) which require access to roads may be classified as Special Purpose Vehicles.

Special Purpose Vehicles are vehicles that have not been designed and built for carrying a load or passengers on roads. Special Purpose Vehicles can be conditionally registered in order to allow the vehicle to gain access to roads.

Vehicles that may be defined as Special Purpose Vehicles include:

- tractors
- fork lifts
- mowers;
- sweepers;
- mobile cranes;
- industrial vehicles;
- farm machines;
- golf carts (subject to the exemption listed above); and
- earth moving vehicles.

Heavy Special Purpose Vehicles (unladen mass exceeding 4500kg) fall into one of three categories:

- **Type P - Plant Based:** a vehicle built or permanently modified to operate off road, or on road areas, or on an area of road that is under construction or repair. For example fork-lifts, bulldozers or excavators.
- **Type T - Truck Based:** a vehicle build or permanently modified primarily for use on roads that has no axle or axle group loaded in excess of the statutory mass limits
- **Type O - Overmass:** a vehicle (other than Type P) built or permanently modified for use on roads that has at least one axle or axle group loaded in excess of statutory mass limits.

In approving the registration of Special Purpose Vehicles, the certain conditions may be imposed, such as:

- daylight travel only;
- restrictions on speed;
- restrictions on distance that may be travelled; or
- must display warning signs.

17.2 *Forklifts*

If a forklift is intended to be used wholly on private property it is not required to be registered. However if a forklift is intended to be used in an area which classifies as a road then Special Purpose Vehicle Registration must be obtained.

Special Purpose Vehicle Registration enables a vehicle to be used on roads and other public areas.

Therefore, if it is anticipated that a forklift may cross a road, or may be used in an area where the public can drive vehicles, then it is advisable to obtain Special Purpose Vehicle Registration.

17.3 *Unregistered Vehicle Permits*

Unregistered vehicles which require short-term access to roads for a specific reason may apply for a short-term Unregistered Vehicle Permit. An Unregistered Vehicle Permit is generally only issued for as long as necessary, but may be granted for a maximum of three days.

Unregistered Vehicle Permits are subject to restrictions which are determined upon application.

Conclusion

- 18 As a general rule, when considering the position of business owners the following matters must be considered:
- 18.1 whether the vehicle is intended to be used in areas classified as roads or road related areas;
 - 18.2 whether the vehicle falls into an exemption alleviating the requirement of registration; and
 - 18.3 whether the vehicle complies with the Vehicle Standards, and if it does not, alternative options for ensuring insurance coverage remains.
- 19 In the event of uncertainty regarding the application of the law to the relevant circumstances it would be prudent to register the relevant vehicle in the absence of specific advice to the contrary from the South Australian Government.

ATTACHMENT 7

AUSTRALIAN CAPITAL TERRITORY VEHICLE REGISTRATION REQUIREMENTS: CURRENT AS AT 20 OCTOBER 2014

Background

- 1 All general liability insurance policies contain an exclusion which provides that the policy will not respond to loss or damage caused by a motor vehicle that is:
 - 1.1 registered; or
 - 1.2 should be registered at law.
- 2 The reasoning behind this exclusion is that if a vehicle is registered or should be registered at law, any loss or damage caused by that vehicle should be covered by the vehicle's Compulsory Third Party (CTP) insurance policy.
- 3 The impact of this exclusion is that the policy will not provide liability protection for any claim involving a vehicle that is not, but should have been, registered. Essentially, the policy will not respond if a CTP policy should respond or where the nominal defendant should defend the claim in the absence of a CTP insurer.
- 4 There are varying laws in each State and Territory about which vehicles must be registered and when. These rules can be difficult to apply to vehicles that are not usually used on public roads, such as forklifts.
- 5 This document summarises the current position in the Australian Capital Territory (the ACT).

This document is general information only and designed to provide guidance to insurance brokers arranging liability policies. It applies as at the date referred to in the document title. It is not intended as advice about, and should not be relied on as advice about, particular circumstances. Specific legal advice should be obtained for each particular circumstance.

When to register

- 6 Section 18(1) of the *Road Transport (Vehicle Registration) Act 1999* (ACT) (**the Act**) provides that a person must not use an unregistered registrable vehicle, or a vehicle with a suspended registration, on a road or a road related area.
- 7 The Act provides:
 - 7.1 **road** means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles, but does not include an area that would otherwise be a road so far as a declaration under the *Road Transport (General) Act 1999*, section 12 (Power to include or exclude areas in road transport legislation) declares that this Act does not apply to the area;
 - 7.2 **road related area** means -
 - 7.2.1 an area that divides a road;
 - 7.2.2 a footpath or nature strip adjacent to a road;
 - 7.2.3 an area that is open to the public and is designated for use by cyclists or animals;

7.2.4 an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles;

7.2.5 a shoulder of a road; or

7.2.6 any other area that is open to or used by the public so far as a declaration under the *Road Transport (General) Act 1999*, section 12 (Power to include or exclude areas in road transport legislation) declares that this Act applies to the area;

but does not include an area that would otherwise be a road or road related area so far as a declaration under that section declares that this Act does not apply to this area.

8 For the purposes of Section 18 of the Act a vehicle will be deemed to be registrable if it is capable of registration under the standard registration process or an alternative process outlined below.

9 Whether a vehicle requires registration depends upon:

9.1 whether the intended area of use classifies as a road or a road related area; and

9.2 the specifications of the vehicle.

Registration based on where the vehicle is intended to be used

10 Clearly, dedicated public roads are roads for the purposes of the Act.

11 Areas which are less obvious which may classify as either a road or a road related area include public golf courses which offer golf carts or factories on private property.

12 The threshold test is that an area cannot be a road if it is not 'open to and used by' the public.

13 Any area that is part of private property and is not open to the public is not a road or a road related area. However, any area that is private property (or part of it) but is also open to the public may be a road or road related area.

14 However, it can only be one of these if it is either of the following:

14.1 An area developed for, or has as one of its main uses, the driving or riding of motor vehicles by the public. This area will be a road.

14.2 An area that is open to or used by the public for driving, riding or parking vehicles. This area will be a road related area.

15 This means that most private property will not be a road, because the property itself is not an area designed for use by the public.

16 However, some parts of private property may be a road related area, if that property is open to the public and the property is open to the public for driving, riding or parking vehicles.

17 Therefore, if a vehicle will be driven on any part of private property that the public (as opposed to employees or contractors of land owner/occupier) will also be able to drive, ride or park vehicles, that land will be classified as either a road or a road related area. Vehicles driven on that land should seek some form of registration.

Registration based on specifications of the vehicle

- 18 Registration under the standard process is applicable to vehicles which require access to areas that classify as a road or a road related area and which comply with the vehicle standards in Schedule 1 of the *Road Transport (Vehicle Registration) Regulation 2000 (ACT)* and the Australian Design Rules (ADRs).

How to register

- 19 Vehicles which do not comply with the Australian Design Rules or Schedule 1 of the *Road Transport (Vehicle Registration) Regulation 2000 (ACT)* (**the Regulations**) but require access to areas which classify as a road or road related area may gain such access by alternative means. These alternative options include Conditional Registration or an unregistered vehicle permit.

19.1 **Conditional Registration**

As stated above, vehicles which do not comply with the ADRs or Schedule 1 of the *Road Transport (Vehicle Registration) Regulation 2000 (ACT)* may seek Conditional Registration to gain access to roads or road related areas. The Conditional Registration costs include CTP insurance for when the vehicle travels on areas which classify as roads or road related areas.

Conditional Registration may impose certain conditions on the use of the vehicle on roads or road related areas. Conditional Registration will only be approved on an individual vehicle assessment and if a standard approved road vehicle that can perform the same function does not exist.

Examples of vehicles which require Conditional Registration include:

- large lawnmowers;
- Special Purpose Vehicles (SPVs) operating in a road or road related areas;
- oversize or over mass truck type vehicles that require access permits such as concrete pumpers or cranes

The *Road Transport Charges (Australian Capital Territory) Regulations 1995 (ACT)* specifies that the following vehicles are SPVs:

- forklifts;
- straddle carriers;
- mobile cherry pickers;
- mobile cranes.

19.2 **Golf carts**

In the Australian Capital Territory golf carts are not eligible to apply for Conditional Registration. Golf carts may not be used on the public road network; however they can be used on golf courses or other areas which classify as road related areas without registration.

19.3 **Forklifts**

Therefore, since forklifts are classified as SPVs, a forklift must seek Conditional Registration if it is intended to be used in areas which classify as a road or related area.

For example, if a forklift will cross a road or drive on a public car park to unload a truck, Conditional Registration is required.

However if the forklift will be used solely on private property, which the public is not able to drive, ride or park motor vehicles, then registration is not required.

19.4 *Unregistered Vehicle Permits*

Unregistered Vehicle Permits (UVPs) enable unregistered vehicles to use road or road related areas for the purpose of being repaired prior to registration or to be moved from one site to another. UVPs provide cover registration and CTP insurance while the vehicle is being used on the road. The CTP insurance is included in the UVP costs.

An UVP can be issued for a maximum period of seven days.

Conclusion

- 20 Whether a vehicle is required to be, or is capable registered will depend on:
 - 20.1 where the vehicle is intended to be used; and
 - 20.2 the specifications of the vehicle.
- 21 When considering the position of the business owners, if a vehicle the business owns will be driven on a road or a road related area, the vehicle must be registered.
- 22 The type of vehicle and the intended use of the vehicle will dictate whether the vehicle can be registered and the type of registration that should be sought.
- 23 In the event of uncertainty regarding the application of the law to the relevant circumstances it would be prudent to register the vehicle in the absence of specific advice to the contrary from the ACT Government.

ATTACHMENT 8

NORTHERN TERRITORY VEHICLE REGISTRATION REQUIREMENTS: CURRENT AS AT 20 OCTOBER 2014

Background

- 1 All general liability insurance policies contain an exclusion which provides that the policy will not respond to loss or damage caused by a motor vehicle that is:
 - 1.1 registered; or
 - 1.2 should be registered at law.
- 2 The reasoning behind this exclusion is that if a vehicle is registered or should be registered at law, any loss or damage caused by that vehicle should be covered by the vehicle's Compulsory Third Party (CTP) insurance policy.
- 3 The impact of this exclusion is that the policy will not provide liability protection for any claim involving a vehicle that is not, but should have been, registered. Essentially, the policy will not respond if a CTP policy should respond or where the nominal defendant should defend the claim in the absence of a CTP insurer.
- 4 There are varying laws in each State and Territory about which vehicles must be registered and when. These rules can be difficult to apply to vehicles that are not usually used on public roads, such as forklifts.
- 5 This document summarises the current position in the Northern Territory.

This document is general information only and designed to provide guidance to insurance brokers arranging liability policies. It applies as at the date referred to in the document title. It is not intended as advice about, and should not be relied on as advice about, particular circumstances. Specific legal advice should be obtained for each particular circumstance.

When to register

- 6 Section 33 of the *Traffic Act* (NT) (**the Act**) provides a person shall not:
 - 6.1 drive; or
 - 6.2 employ, permit or suffer a person to drive, on a public street, or a public place a motor vehicle which is not registered.
- 7 Section 3 of the Act provides:
 - 7.1 **public place** means a place (other than a public street) open to or used by the public or to which the public is permitted to have access whether on payment of fee or otherwise, but does not include a track in an enclosed area used for motor vehicle or bicycle racing or speed trials; and
 - 7.2 **public street** means a street, road, lane, thoroughfare, footpath or place open to, or used by, the public and includes a road on land leased under the *Special Purposes Lease Act* for use as a road, but does not include:
 - 7.2.1 a road, or part of a road, which is closed under the *Control of Roads Act* or the *Local Government Act*; or

7.2.2 a street, road, lane, thoroughfare, footpath or other place under construction, and not open to or used by the public.

8 Whether a vehicle requires registration depends upon:

8.1 whether the intended area of use classifies as a public street or public place; and

8.2 the specifications of the vehicle.

Registration based on where the vehicle is intended to be used

9 Whether or not an area of land classifies as a public street or a public place clearly depends whether the public have access to the area.

10 The public roads network will clearly be encompassed in the term public street for the purposes of the Act.

11 The terms public street and public places are particularly wide and are likely to capture areas such as public golf courses which offer self-propelled carts, and parts of private property which are open for public use.

12 The threshold test is that an area cannot be a public street or a public place if it is not 'open to and used by' the public.

13 Any area which is part of private property and is not open to the public will not be classified as a public street. However, any area that is private property (or part of it) and is also open to the public may be classified as a public street or a public place.

14 Due to the wide scope of the section, some form of registration will be required if a vehicle is intended to be used in an area which the public has access to, and which classifies as either a public street or a public place.

Registration based on the specifications of the vehicle

15 In order for a vehicle to be eligible for registration under the standard process the vehicle must comply with Northern Territory legislation which incorporates the Australian Vehicle Standards Rules and relevant Australian Design Rules (ADRs). These contain mandatory requirements for the safe design, construction and maintenance of vehicles.

How to register

16 Vehicles which do not comply with the ADRs but seek access to public streets may apply for Conditional Registration, special vehicle registration or an Unregistered Vehicle Permit (UVP).

17 Conditional Registration, special vehicle registration and Unregistered Vehicle Permits still require CTP insurance for the instances they are used on areas which classify as public places or public streets. The CTP insurance does not extend to use of the vehicle on areas which do not classify as public places or public streets.

18 It is noteworthy that Northern Territory legislation provides that certain vehicles classify as Special Purpose Vehicles. Subsequently, if such vehicles require access to areas which classify as public places or public streets they are to obtain Special Vehicle Registration rather than Conditional Registration. If a non-standard vehicle does not classify as a Special Purpose Vehicle it should apply for Conditional Registration in order to gain access to public places and streets.

19 In the Northern Territory, CTP insurance is purchased at the same time as registration.

19.1 ***Special Vehicle Registration***

A special purpose vehicle means a vehicle over 4.5 tonnes GVM/ATM, where the primary purpose for which it was built, or permanently modified, was not for the carriage of goods, or passengers.

There are three specific categories of special purpose vehicles:

- Plant Special Vehicle (PSV);
- Truck Special Vehicle (TSV); and
- Overmass Special Vehicle (OSV).
- In determining whether a vehicle classifies as a Special Purpose Vehicle the following factors are relevant:
 - whether the vehicle is constructed to perform a specific function unrelated to the carriage of goods or passengers on the general road network; and
 - whether the vehicle will operate in its loaded capacity in off-road or specified areas.

A Special Purpose Vehicle with an allotted load carrying capacity will not have unrestricted access to the road system.

Examples of special purpose vehicles include:

- forklifts;
- bulldozers; and
- front-end loaders.

If a vehicle does not classify as a special purpose vehicle Conditional Registration may be alternatively sought.

19.2 ***Forklifts***

If it is anticipated that a forklift will under no circumstances encounter an area which classifies as a public street or a public place, the forklift will not be required to obtain Special Vehicle Registration.

However, if it is foreseeable that a forklift may require access to an area classified as a public street or a public place, Special Vehicle Registration should be sought.

Special Vehicle Registration will allow a forklift to use certain public streets or public places, rather than unlimited use of the roads network.

19.3 ***Conditional Registration***

In the Northern Territory Conditional Registration is available to vehicles which do not comply with the Motor Vehicles (Standards) Regulations. Conditional Registration is allowed by section 8(b) of the *Motor Vehicles Act* (NT) which allows the Registrar to provide vehicles with access to public places or public streets under certain conditions.

According to the Northern Territory Department of Transport, an applicant should submit an application in writing to the Northern Territory Department of Transport.

The application should specify:

- the type of vehicle;

- the intended areas of use; and
- the proposed regularity of such use.

The application will then be considered by the Head of the Northern Territory Department of Transport, who will grant or refuse the application on a case by case basis.

Conditionally registered vehicles are required to carry a full statement of the conditions at all times when on a public street or a public place.

19.4 *Unregistered Vehicle Permits*

Unregistered Vehicle Permits are only available for the relocation of a vehicle or for vehicles repairs for registration. UVPs are valid for a maximum period of one week. The permit must indicate all destinations the vehicle is permitted to travel to.

The cost of a UVP includes CTP insurance for travel on public places or public streets permitted by the UVP.

Conclusion

- 20 When considering the position of business owners, if a vehicle the business owns will be used on an area which the public obviously has access to (as opposed to employee or contractors of land owner/occupier), it is probable the area will classify as a public street or public place and some form of registration will be required.
- 21 The specifications of the vehicle will dictate whether the vehicle can be registered under the standard process or if special vehicle registration, Conditional Registration or an unregistered vehicle permit should be sought.
- 22 In the event of any uncertainty regarding the application of the law to the relevant circumstances it would be prudent to register the relevant vehicle in the absence of specific advice to the contrary from the Northern Territory Department of Transport.