



Circular 3599

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Driving Under Lights and Sirens

Attention: Branch Presidents, Branch Directors of Lifesaving

Actioned by: Branch Directors of Lifesaving

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Summary	<ul style="list-style-type: none"> • SLSNSW Support Operations Groups, Branches and Clubs are NOT permitted to drive vehicles in traffic conditions with flashing lights and sirens. • Only accredited “rescue units” under section 54 of the SERM Act are allowed to operate under certain conditions • SLSNSW and its entities are not accredited rescue units under the SERM Act to operate on roads
Key Strategic Goal	SLSNSW is providing the information in this circular in order to protect our members and our reputation, SLSNSW has sought legal advice on the organisation’s position on the operation of lights and sirens.
Strategic Plan	1. SLSNSW Branches and Clubs to review the following and action as appropriate.

Background

SLSNSW was gazetted as an Emergency Service under the State Emergency and Rescue Management Act 1989 (NSW) (SERM Act) in December 2018.

SLSNSW has introduced high visibility livery and branding to operational vehicles similar to other emergency service vehicles. SLSNSW has provided various Branches with 5 x vehicles which have been branded up in the operational livery. None of these vehicles when provided by SLSNSW to the Branches had fitted any warning devices (audible or flashing lights). Branches have multiple vehicles within Support Operations and respond to incidents.

Key Issues:

It has been reported that some vehicles across the state have been fitted with lights and/ or sirens that may not comply with Section 54 of the SERM Act.

In order to protect our members and our reputation, SLSNSW has sought legal advice on the organisation's position on the operation of lights and sirens.

Whilst SLSNSW has been gazetted as an Emergency Service under the SERM Act, SLSNSW has not been granted permission to operate flashing lights and sirens on any vehicle, on a road or road related area.

SLSNSW may look to investigate this further and determine if there is a need or requirement for the use of lights and sirens, ensuring that appropriate training, policies and procedures are in place due to the inherent and serious risks associated with driving in contravention of road transport legislation.

Actions:

- Branches are to ensure their vehicles do not include the following lights:
 - Blue, red, green, magenta/crimson
- Vehicles may be fitted with amber and red lights only. The lights will only be operated on a beach, not when responding to an incident or on a road.
- Vehicles may be fitted with a siren. The siren will only be operated on a beach in accordance with SLSNSW Standard Operating Procedures in order to evacuate a beach, not when responding to an incident or on a road.

Risk:

- It is an offence against the SERM Act for a party to operate an unaccredited rescue unit.
- SLSNSW (or its Branches) may be prosecuted for a breach of this Act. This attracts a maximum penalty of 50 penalty units (a penalty unit is currently \$110).
- Liability in a motor vehicle accident whilst operating under flashing lights will, like most motor vehicle accidents, turn on the circumstances of the accident. If it is a SLSNSW vehicle operating (unlawfully) under lights and sirens this will be a matter for the court to consider in all the circumstances of the case.
- Organisational reputation risk if we do not conform to the SERM Act.

Supporting Documentation

- Driving Vehicles Under Lights and Sirens Q & A

(attached)

Driving Vehicles under Lights and Sirens Q & A

1. Is SLSNSW (Branches) permitted to drive vehicles in traffic conditions with flashing lights?

- a. SLSNSW is a gazetted emergency service under the SERM Act.
- b. We understand that neither SLSNSW (nor any of its Branches) is an accredited “rescue units” under section 54 of the SERM Act. The SERM Act (s 52) defines:
 - a. rescue unit means a unit (comprising a group of persons) which carries out rescue operations for the protection of the public or a section of the public.
 - b. rescue vehicle means a vehicle that is designed, adapted or equipped for use in rescue work and:
 - i. is clearly marked with the word “Rescue”, or
 - ii. is fitted with warning devices, such as flashing lights or a siren,
 - iii. or both.
- c. It is an offence for a person who:
 - a. establishes, manages or controls a rescue unit which is not accredited under the SERM Act (s 53(1)); or
 - b. is not a member of a rescue unit accredited under the SERM Act to display, drive or operate a rescue vehicle (s 53(1A)).
- d. Section 53(3) provides however that “A rescue unit is not required to be accredited (a) if it is a unit only engaged in surf life-saving;”. The SERM Act does not define “engaged in surf life-saving”. For the purposes of this advice it is considered that engaged in surf life-saving means being engaged in an act of surf life-saving (on beach) NOT driving on roads to an incident.
- e. SLS rescue units should be accredited under the Act so a SLS rescue unit driving under lights and sirens as a rescue vehicle is not contravening the SERM Act.

2. Who (which organisations/agencies) are permitted to drive under lights and sirens? Police vehicles or emergency vehicles are permitted to drive under lights and sirens. In NSW an emergency vehicle is defined as:

... any vehicle driven by a person who is:

- a. an emergency worker, and
- b. driving the vehicle in the course of his or her duties as an emergency worker.
- c. “emergency worker” means:
 - i. a member of the Ambulance Service rendering or providing transport for sick or injured persons, or;
 - ii. a member of a fire brigade, rural fire brigade or the State Emergency Service providing transport in the course of an emergency, or
 - iii. a person (or a person belong to a class of persons) approved by the Authority.

3. When are flashing lights allowed to be used by SLSNSW, and what colour?

As noted above SLSNSW is not allowed to use flashing lights. As noted above SLSNSW vehicles may be able to use flashing lights only when engaged in surf life saving.

Lights

- a. A flashing light displayed on a vehicle can only be blue, red, green, magenta/crimson or amber/yellow. Each of these colours, or combination of colours, is intended to convey a specific warning to road users. To guard against incorrect use and to avoid possible distraction from the significance of a flashing light, their use is limited to particular types of vehicles and in particular circumstances.
- b. Blue, or blue and red flashing lights must only be fitted to:
 - i. Police vehicles.

- ii. Ambulances solely used by the Ambulance Service of NSW as defined under the Health Services Act 1997 or a vehicle authorised by the Ambulance Service of NSW under its delegated authority.
 - iii. Operational fire brigade vehicles and accredited NSW Rural Fire Service vehicles.
 - iv. A vehicle used by a Traffic Commander or a Traffic Emergency Patroller appointed or employed by the RTA.
 - v. State Emergency Service vehicles.
 - vi. Vehicles used by an accredited rescue unit as defined in the SERM Act.
- c. The use of blue, or blue and red flashing lights is intended to advise other road users that the vehicle displaying them is responding to an emergency situation. They must only be used when the vehicle is being used for police operational functions or urgent purposes arising from an accident, fire or other emergency.
 - d. In addition to the vehicles listed above, red flashing lights must only be fitted to:
 - i. Red Cross vehicles used for the conveyance of blood for urgent transfusions.
 - ii. Mines rescue vehicles.
 - iii. Other rescue vehicles.
 - iv. Other emergency vehicles not referenced above that are driven by an emergency worker in the course of their duties, where an 'emergency worker' is a person (or one of a class of persons) approved by the Roads and Traffic Authority (RTA).
 - e. A red flashing light warns road users of the presence of a vehicle associated with a risk-to-life situation. It must only be used when the vehicle is being used for urgent purposes arising from an accident, fire or other emergency.
 - f. A green flashing light warns road users of the presence of a stationary operational fire brigade, accredited NSW Rural Fire Service, ambulance or police emergency site command vehicle. They should not be operated while a vehicle is in motion. These display a red, or red and blue flashing light as applicable while in motion (see above).
 - g. A magenta/crimson flashing light warns road users of the presence of an RTA enforcement vehicle or a vehicle used by a local council officer engaged in monitoring or measuring the weight of heavy vehicles.
 - h. An amber or yellow flashing light warns road users of an obstruction to the free flow of traffic. Amber/yellow flashing lights may be fitted to vehicles which operate in hazardous situations, and must only be used when the vehicle is standing in a hazardous position or is moving in hazardous circumstances. The light does not have to be removed when the vehicle operates in non-hazardous situations but it must not flash.

Sirens

- a. Sirens may only be fitted to the following emergency service vehicles:
- b. Police vehicles.
- c. Ambulances as defined above.
- d. Operational fire brigade and accredited NSW Rural Fire Service vehicles.
- e. Red Cross vehicles used for urgent blood deliveries.
- f. Mines rescue vehicles approved by the Mines Rescue Board.
- g. Rescue vehicles accredited by the State Rescue Board and approved by the RTA.
- h. Accredited 'volunteer' rescue vehicles approved by the State Rescue Board, endorsed by the NSW Police Service and approved by the RTA.
- i. Australian Federal Police vehicles.
- j. Australian Customs Service vehicles.
- k. Airservices Australia vehicles.

- l. A vehicle used by a Traffic Commander or a Traffic Emergency Patroller appointed or employed by the RTA, or a vehicle used by the RTA Vehicle Regulation Enforcement section.
- m. A person (or person belonging to a class of persons) approved by the Authority.
- n. A vehicle at least 25 years old that is fitted as a police or emergency vehicle if:
 - i. the vehicle is used for exhibition purposes
 - ii. it is part of a collection of former police or emergency vehicles.

4. What traffic management act is referenced here to allow agencies to operate vehicles under response conditions (flashing lights/audible sirens)?

- a. The Road Transport (Vehicle Registration) Regulation 2017 (Regulation) allows certain nominated vehicles be fitted with a light or lights capable of displaying a flashing or rotating light of an associated colour and sirens.
- b. Refer to paragraph 1 above which sets out the SERM Act application and the definition of Rescue Vehicle which also references flashing lights and sirens.

5. Which entity does SLSNSW need to apply to for exemption/permission to operate under flashing lights?

- a. Under section 54 of the SERM Act:
 - i. Application may be made to the Minister for the accreditation of a rescue unit.
 - i. An application for accreditation is required to be lodged with the State Rescue Board.
 - ii. The State Rescue Board is to report to the Minister on the need for the rescue unit concerned, the standard of equipment and training and the effect of accreditation of the unit on the control and co-ordination of rescue services.
 - iii. The Minister may accept or refuse an application for accreditation.
 - iv. The Minister is to have regard to any recommendation made by the State Rescue Board on an application for accreditation, but is not bound by the recommendation.”

6. Who is liable if a vehicle is involved in a motor vehicle accident whilst operating under flashing lights?

- a. Under the provisions of the New South Wales Road Rules, drivers of other vehicles must give way to, and not move into the path of, any approaching police or emergency services vehicle that is sounding a siren or other alarm, or displaying a flashing blue or red light whether or not it is also displaying other lights.
- b. Liability in a motor vehicle accident whilst operating under flashing lights will, like most motor vehicle accidents, turn on the circumstances of the accident. If it is a SLSNSW vehicle operating (unlawfully) under lights and sirens this will be a matter for the court to consider in all the circumstances of the case.