

GOVERNMENT OF FIJI GAZETTE SUPPLEMENT

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LAND TRANSPORT ACT 1998
(No. 35 OF 1998)

**Land Transport
(Photographic Detection Device) Regulations 2013**

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IN exercise of the powers conferred upon me by section 113 of the Land Transport Act 1998 and following consultation with the Land Transport Authority, I hereby make these Regulations—

PART 1—PRELIMINARY

Short title and commencement

1. These Regulations may be cited as the Land Transport (Photographic Detection Device) Regulations 2013, and shall come into force on a date appointed by the Minister by notice published in the *Gazette*.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Act” means the Land Transport Act 1998;

“Adjudicator” means a person who is a member of the Unit and responsible for the assessment and review of the images captured by a device;

“authorised officer” means a person appointed in writing by the Authority for the purposes of these Regulations;

“Authority” means the Land Transport Authority established under section 6 of the Act;

“certified image” means an image that has been assessed and reviewed by the Unit under regulation 12;

“device” means a photographic detection device;

“Director” means the Director appointed under section 5 (a) of the National and Trade Measurement Decree 1989;

“image” means a visual illustration of an object that is captured by a device;

“location code” means the code on an image for the location where that image was captured and the data recorded;

“Minister” means the Minister responsible for Transport;

“motor vehicle” means any automobile, motor car, motor carriage, motorcycle, traction engine, tractor, or other carriage or vehicle propelled or capable of being propelled by means of an engine powered wholly or partly by any volatile

spirit, steam, oil, gas or electricity, or by any means other than human or animal power, but shall not include—

- (a) a bicycle propelled or capable of being propelled by means of an internal combustion engine that is fitted to but detachable from the bicycle, being an engine the generating capacity of which does not exceed 20 watts; or
- (b) a wheelchair to be driven by a person with a disability;

“owner” means—

- (a) subject to paragraph (b) and if the motor vehicle is registered, the person registered as the owner of the motor vehicle;
- (b) if a registered motor vehicle is sold or otherwise disposed of by the person registered as the owner of the motor vehicle and he or she has given notice thereof to the Authority, the purchaser; or
- (c) if a trade plate is placed on the motor vehicle under the authority of a trader identification permit, the person to whom the plate was issued;

“person” includes any company, association or body of persons, corporate or unincorporate;

“photographic detection device” means an approved device that captures images of offences committed under the Act and the subsidiary laws made under the Act;

“trade plate” means a registration plate authorised by a trader identification permit;

“trader identification permit” means a permit issued under regulation 33 of the Land Transport (Vehicles Registration and Construction) Regulations 2000;

“Traffic Infringement Notice” means a notice issued under regulation 15; and

“Unit” means the Photographic Traffic Infringement Processing Unit established under regulation 5.

Application

3. These Regulations shall apply throughout Fiji, including any person irrespective of that person’s nationality or citizenship.

Objects

4. The objects of these Regulations are to—

- (a) enforce traffic safety laws;
- (b) identify and record images of motor vehicles that enter an intersection in contravention of a red light or red traffic arrow;
- (c) identify and record images of motor vehicles that exceed the speed limit;
- (d) deter illegal activities on the road;
- (e) ensure that the use of motor vehicles is regulated for the purposes of safety, protection of the environment and law enforcement; and
- (f) establish a method that identifies each motor vehicle used on the road and the person who is responsible for it.

PART 2—THE PHOTOGRAPHIC TRAFFIC INFRINGEMENT PROCESSING UNIT

Establishment of the Photographic Traffic Infringement Processing Unit

5. This regulation establishes the Photographic Traffic Infringement Processing Unit.

Composition of the Unit

6. The Unit shall consist of the following members who shall be appointed by the Authority—

- (a) a Manager responsible for traffic management;
- (b) a Senior Technical Assistant responsible for road safety;
- (c) a Senior Technical Assistant responsible for traffic technology and devices;
- (d) 3 Adjudicators responsible for the assessment and review of the images captured by a device; and
- (e) an authorised officer responsible for processing and certifying the images for the issuance of a Traffic Infringement Notice.

Functions of the Unit

7. The functions of the Unit shall be to—

- (a) install a device at locations determined by the Authority;
- (b) collect and manage data on traffic volumes and heavily trafficked routes;
- (c) collect and analyse accident data;
- (d) improve the movement of traffic on the road and reduce road accidents; and
- (e) modify road user behaviour through public awareness education and training.

Powers of the Unit

8. The powers of the Unit shall be to—

- (a) decrypt the images captured by a device;
- (b) assess and review the images captured by a device;
- (c) certify the images captured by a device;
- (d) issue Traffic Infringement Notices against offenders; and
- (e) initiate proceedings against offenders.

PART 3—PHOTOGRAPHIC DETECTION DEVICES

Installation of a device

9.—(1) Pursuant to regulation 7 (a), the Unit shall ensure that the device is approved for trade use in Fiji subject to the National and Trade Measurement Decree 1989.

(2) A device is approved for trade use in Fiji if it has been tested and calibrated by the Director.

(3) The Director shall, after testing and calibrating the device in sub-regulation (2), issue a certificate under the National and Trade Measurement Decree 1989 that the device has been tested and calibrated.

(4) The Director may issue the certificate in sub-regulation (3) with operating instructions.

Functions of a device

10.—(1) A device shall—

- (a) be used in the prescribed manner under regulation 11;
- (b) capture images of a motor vehicle entering an intersection in contravention of a red light or red traffic arrow;
- (c) measure the speed at which a motor vehicle is being driven and capture images of a motor vehicle travelling at a speed equal to or greater than the speed set on the device; or
- (d) capture images of offences committed under the Act and the subsidiary laws made under the Act.

(2) A device shall also record data derived from the series of images of a motor vehicle captured in sub-regulation (1).

(3) The images captured in sub-regulation (1) shall display the following information—

- (a) the serial number of the device;
- (b) the date and time when the images were captured and the data recorded;
- (c) the location code;
- (d) the speed limit applying to the length of the road on which the motor vehicle was travelling when the images were captured and the data recorded; and
- (e) the speed of the motor vehicle as measured by the device when the images were captured and the data recorded.

(4) For the purpose of this regulation, a motor vehicle with a trailer shall be deemed to be a single motor vehicle.

(5) This regulation shall not—

- (a) limit the matters that may be indicated on or shown by an image captured by a device; or
- (b) limit the information included in an electronic file created by a device.

Proper use of a device

11.—(1) A device shall be used in the prescribed manner if—

- (a) an authorised officer placing or removing the device or loading or unloading the film magazine into or from the device—
 - (i) checks the time, date and location code in the display of the device and makes any corrections that may be necessary to ensure that the correct data is displayed on the image printed from the reversal or negative film captured by the device;
 - (ii) checks the motor vehicle detector system to ensure that it is correctly monitoring the movement of motor vehicles at the location in the relevant direction of travel; and
 - (iii) ensures that when the device is installed and left unattended, it is kept in a secure housing;
- (b) the device has been tested, calibrated and certified under regulation 9;

- (c) the device is used in accordance with operating instructions, if any, approved by the Director; and
- (d) an authorised officer placing or removing the speed calculation unit or the control unit, or loading or unloading removable storage media, if any, into or from the control unit, or switching on or resetting the control unit after it has been inoperable for any reason—
 - (i) checks the time, date and location code and makes any corrections that may be necessary to ensure that the correct data is recorded in the electronic file;
 - (ii) checks that the motor vehicle detectors are correctly responding to the movement of motor vehicles at the location; and
 - (iii) ensures that when the speed calculation unit and control unit are installed and left unattended, they are kept in one or more secure housings.

PART 4—PROCEDURE

Certification of images

12.—(1) An Adjudicator shall, within 14 days from the date the image was captured by a device, issue a certified image to an authorised officer for the issuance of a Traffic Infringement Notice.

(2) An Adjudicator shall issue, to an authorised officer, a certified image in sub-regulation (1) with a report stating—

- (a) that the device is a certified and approved device under regulation 9;
- (b) that the device has been used in accordance with regulation 11;
- (c) that the certified image is an accurate copy of an image captured by the device at a stated date, time and place or is an accurate copy of a series of images captured by that device at a stated date, place and during a stated period of time;
- (d) the speed limit applying to the length of road on which the motor vehicle was travelling; and
- (e) a measurement of the speed at which the motor vehicle was being driven.

(3) A certified image issued under sub-regulation (1) shall be prima facie evidence of everything indicated on or shown by the image.

(4) If an image is a copy of a series of images captured by a device during a period of time, that image may be considered with other images in the series of images.

Inspection

13. The Unit shall make available a copy of the certified image and the report, including the information indicated on the image, for inspection by the person liable under regulation 14.

Owner onus offence

14.—(1) The owner of a motor vehicle shall be liable for an offence detected by a device.

(2) If more than one person owns a motor vehicle in relation to which an offence is detected under sub-regulation (1), each owner shall be jointly and severally liable under sub-regulation (1).

- (3) It shall be a defence for an owner of a motor vehicle if the owner proves that—
- (a) he or she was not the driver of the motor vehicle at the time the offence was committed;
 - (b) the motor vehicle was stolen;
 - (c) the motor vehicle was being driven without the consent of the owner of that motor vehicle;
 - (d) the motor vehicle has been de-registered; or
 - (e) the motor vehicle has lawfully changed ownership or possession.

Institution of proceedings

15.—(1) Subject to section 92 of the Act, an authorised officer may institute proceedings in respect of an offence committed by issuing a Traffic Infringement Notice to the owner of a motor vehicle within 14 days from the date of receipt of the certified image.

(2) Pursuant to sub-regulation (1), an authorised officer shall issue a Traffic Infringement Notice by—

- (a) serving the Traffic Infringement Notice personally upon the owner of a motor vehicle;
- (b) affixing the Traffic Infringement Notice to the motor vehicle in a conspicuous position;
- (c) sending the Traffic Infringement Notice by registered mail to the owner of the motor vehicle's postal address last recorded by the Authority; or
- (d) serving the Traffic Infringement Notice at the owner of the motor vehicle's residential address last recorded by the Authority upon a person who resides there, being a person who is not below the age of 18 years.

(3) If the Traffic Infringement Notice is affixed on a motor vehicle pursuant to sub-regulation (2) (b), the Traffic Infringement Notice shall—

- (a) be issued by reference to the registered number of the motor vehicle; and
- (b) bear the date on which the Traffic Infringement Notice was affixed on the motor vehicle.

(4) A Traffic Infringement Notice shall—

- (a) be issued in the prescribed form under Schedule 1;
- (b) require the owner of a motor vehicle to whom it is issued to attend court at the place, date and time not being less than 28 days from the date the Traffic Infringement Notice was issued, as specified on the Traffic Infringement Notice;
- (c) inform the owner of a motor vehicle to whom a Traffic Infringement Notice is issued of the offence committed;
- (d) require the owner of a motor vehicle to pay to the Authority the fixed penalty for the offence, as shall be specified in the Traffic Infringement Notice, within 21 days from the date the Traffic Infringement Notice was issued;

- (e) be accompanied with the certified image captured by a device; and
- (f) be accompanied with a Statutory Declaration Form prescribed under Schedule 2.

(5) Upon receipt of a Traffic Infringement Notice, the owner of a motor vehicle shall, within 21 days from the date the Traffic Infringement Notice was issued,—

- (a) pay the fixed penalty specified in the Traffic Infringement Notice to the Authority; or
- (b) provide a Statutory Declaration to the Authority.

(6) Nothing in this regulation shall prevent the institution of proceedings under any other provision of these Regulations, the provisions of the Act or any subsidiary laws made under the Act.

Statutory Declaration

16.—(1) For the purposes of regulations 14 (3) and 15 (5) (b), the owner of a motor vehicle shall, by means of a Statutory Declaration, provide the name and address of the driver of the motor vehicle at the time the offence was committed, and may include the following information—

- (a) a statement setting out by or under, what or whose authority, whether oral or written, the driver had control, use or management of the motor vehicle at the time the offence was committed;
- (b) the address of any premises, other than the address of the driver, from which the driver, or a person acting on behalf of the driver, had control, use or management of the motor vehicle at the time the offence was committed;
- (c) where the motor vehicle was part of a group of motor vehicles that were physically connected at the time the offence was committed, the name and address of the driver of any or all of the motor vehicles forming part of the group of motor vehicles at the time the offence was committed; or
- (d) any other relevant information or document attached to the Statutory Declaration.

(2) Where a motor vehicle has been stolen or sold to another person at the time an offence was committed, it shall be sufficient proof of his or her claim if the owner of the motor vehicle, in addition to his or her Statutory Declaration, provides a Police Report or a transfer document giving effect thereof to his or her claim.

(3) The authorised officer who issued a Traffic Infringement Notice under regulation 15 (1) shall cause a copy of the Traffic Infringement Notice to be placed before the court specified in the Traffic Infringement Notice within 7 days from the date the Traffic Infringement Notice was issued to the owner of a motor vehicle.

Acceptance of a Traffic Infringement Notice

17.—(1) If proceedings are instituted by means of serving a Traffic Infringement Notice under regulation 15 (2) and the Traffic Infringement Notice has been accepted by the payment of the fixed penalty within 21 days from the date the Traffic Infringement Notice was issued, that acceptance shall be deemed as a conviction for the offence in respect of which the Traffic Infringement Notice was issued.

(2) On the acceptance of a Traffic Infringement Notice for an offence that does not attract any demerit points, the proceedings instituted shall not be deemed as a conviction.

(3) If proceedings are instituted by means of serving a Traffic Infringement Notice under regulation 15 (2) and the offence is a second or subsequent offence for which a penalty other than the fixed penalty applies, a summons shall be required to attend court and any penalty paid shall be held in credit against any subsequent penalty arising from the offence or refunded as the case may be.

(4) If a Traffic Infringement Notice served under regulation 15 (2) has not been accepted by payment of the fixed penalty within 21 days from the date the Traffic Infringement Notice was issued, or if the person to whom the Traffic Infringement Notice was issued fails to provide a Statutory Declaration within 21 days from the date the Traffic Infringement Notice was issued, the Traffic Infringement Notice shall be regarded for all purposes as a summons issued under the provisions of the Criminal Procedure Decree 2009.

(5) A court shall not proceed with the hearing of proceedings instituted by the affixing of a Traffic Infringement Notice to a motor vehicle unless, before the date of the hearing, a signed copy of the Traffic Infringement Notice has been served upon the owner of the motor vehicle.

Evidence of acceptance of a Traffic Infringement Notice

18. In any proceedings, a certificate signed by the Clerk of the court or an authorised officer that the fixed penalty was or was not paid shall, unless the contrary is proved, be conclusive evidence of the matters stated in the certificate.

Offence to remove a Traffic Infringement Notice

19.—(1) Subject to sub-regulation (2), a person who removes or interferes with a Traffic Infringement Notice affixed to a motor vehicle in accordance with regulation 15 (2) (b) commits an offence and shall be liable upon conviction to the prescribed penalty under the Land Transport (Fees and Penalties) Regulations 2000.

(2) It shall be a defence to a prosecution of a person for an offence under sub-regulation (1) that the person was acting on behalf of the—

- (a) owner of the motor vehicle to whom the Traffic Infringement Notice was issued to; or
- (b) person having immediate lawful charge of the motor vehicle.

Withdrawal Notice

20.—(1) A Traffic infringement Notice issued to the owner of a motor vehicle may be cancelled by the Authority within 7 days from the date of receipt of the Statutory Declaration by the Authority.

(2) For the purpose of sub-regulation (1), a Traffic Infringement Notice issued to the owner of a motor vehicle shall be cancelled upon the service of a Withdrawal Notice on that owner in a form prescribed under Schedule 3.

(3) Upon the cancellation of a Traffic Infringement Notice, the Authority shall cause to be transferred to the driver of the motor vehicle, as stated in the Statutory Declaration of the owner of the motor vehicle, a Traffic Infringement Notice for the offence detected by a device.

PART 5—OFFENCES AND PENALTIES

Payment of penalties

21.—(1) A person to whom a Traffic Infringement Notice is issued shall pay to the Authority the fixed penalty of the offence as prescribed under the Land Transport (Fees and Penalties) Regulations 2000 and specified in the Traffic Infringement Notice.

(2) Any penalty in sub-regulation (1) may be imposed with demerit points.

Unauthorised installation and display of devices and equipment

22.—(1) A person shall not, without the approval of the Authority—

(a) install a device—

- (i) on, above or near a road or road related area; or
- (ii) on a vehicle on, above or near a road or road related area; or

(b) interfere with, change or remove a device installed or displayed—

- (i) on, above or near a road or road related area; or
- (ii) on a vehicle on, above or near a road or road related area.

(2) A person shall not install or display a sign, signal, marking, structure or other equipment that might reasonably be mistaken for a device—

- (a) on, above or near a road or road related area; or
- (b) on a vehicle on, above or near a road or road related area.

(3) Any person who contravenes sub-regulations (1) or (2) commits an offence and shall be liable upon conviction to a fine not exceeding \$2,000.

Removal of unauthorised equipment

23.—(1) This regulation shall apply if a person installs or displays a sign, signal, marking, structure or other equipment in contravention of these Regulations.

(2) The Authority or an authorised officer may—

- (a) direct the person, orally or in writing, to remove the equipment within a stated reasonable time; or
- (b) remove the equipment.

(3) If the person is given a direction under sub-regulation (2) (a), that person shall comply with that direction.

(4) Any person who contravenes sub-regulation (3) commits an offence and shall be liable upon conviction to a fine not exceeding \$2,000.

Presumption of lawful installation or display

24. In a proceeding for an offence against these Regulations, other than an offence against regulation 22, a device installed or displayed on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, shall be deemed to have been lawfully installed or displayed under these Regulations.

Dated this 11th day of February 2013.

T. L. NATUVA
Minister for Works, Transport and Public Utilities

SCHEDULE 1—TRAFFIC INFRINGEMENT NOTICE
(Regulation 15 (4) (a))



LAND TRANSPORT AUTHORITY
TRAFFIC INFRINGEMENT NOTICE
LAND TRANSPORT (PHOTOGRAPHIC DETECTION DEVICE) REGULATIONS 2013

TRAFFIC INFRINGEMENT NOTICE NO.:

To: _____ *(Name of owner of motor vehicle)*

of _____
(Address)

Photographic Detected Offence

The registered owner of Motor Vehicle Registration No.:

Full Name: _____ Title: _____ Date of Birth: _____

Residential Address:

Postal Address: _____ Phone No.: _____

TAKE NOTICE that the above motor vehicle is alleged to have been involved in an offence particularised as follows:

Particulars of Offence: _____

Contrary to: _____

1. This offence carries a maximum penalty of \$ _____ and _____ demerit points. If you do not wish to contest this Notice, you are required to pay a Fixed Penalty of \$ _____ to the Land Transport Authority.
2. The payment of Fixed Penalty is due within 21 days from the date of service of this Notice at any Land Transport Authority Office nearest to you. All liability in respect of the offence will be discharged and no further action will be taken against you.
3. If you were not the driver of the said motor vehicle at the time of the offence and wish to contest this Notice, you must fill in the Statutory Declaration Form and disclose to the Land Transport Authority the name and address of the driver of the said motor vehicle at time of the offence (including other relevant information and necessary documentation) within 21 days from the date of service of this Notice.
4. If you fail to pay the Fixed Penalty or provide a Statutory Declaration within 21 days from the date of service of this Notice, you are required to attend the _____ (name of court) at _____ (place), on _____ (date) at _____ (time).

(Name of Authorised Officer) (Signature of Authorised Officer) (Date)

SCHEDULE 2—STATUTORY DECLARATION FORM
(Regulation 15 (4) (f))

TRAFFIC INFRINGEMENT NOTICE NO.:



**LAND TRANSPORT AUTHORITY
STATUTORY DECLARATION**

LAND TRANSPORT (PHOTOGRAPHIC DETECTION DEVICE) REGULATIONS 2013

STATUTORY DECLARATION

Note:

- Print clearly using **BLOCK LETTERS** in the space provided;
- All applicable sections must be completed;
- Complete and return this Form within 21 days from the date of the issuance of the Traffic Infringement Notice. **DO NOT MAKE PAYMENT AS A NEW TRAFFIC INFRINGEMENT NOTICE MAY BE ISSUED TO THE PERSON YOU NAME.**
- Please send your completed Form by hand delivery or post by registered mail within 21 days from the date of the issuance of the Traffic Infringement Notice to the Photographic Traffic Infringement Processing Unit, Land Transport Authority, PO Box 6677, Valelevu, Nasinu.

I, (Full Name of person named on the Traffic Infringement Notice)

Residential Address:

Phone No.:

Give Notice that the person named below was responsible for the offence as prescribed in the Traffic Infringement Notice: (You are required to provide the name and address of the driver of the motor vehicle at the time the offence was committed)

Name:

Address:

(You may also provide the following information in the space provided) [Please tick the relevant box if such information will be provided]

- The authority, whether oral or written, by which the driver had control, use or management of the motor vehicle at the time the offence was committed;
- The address of any premises, other than the address of the driver, from which the driver, or a person acting on behalf of the driver, had control, use or management of the motor vehicle at the time the offence was committed;
- Where the motor vehicle was part of a group of motor vehicles that were physically connected at the time the offence was committed, the name and address of the driver of any or all of the motor vehicles forming part of the group of motor vehicles at the time the offence was committed;
- If motor vehicle was stolen at the time an offence was committed, provide a Police Report;
- If motor vehicle was sold to another person at the time an offence was committed, provide a transfer document.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act (Cap. 43).

Declared at _____
 this _____ day of _____
 20_____ before me and I certify that the
 declaration was read over in the _____
 language to the Declarant who appeared fully
 to understand the meaning thereof.

(Signature of Declarant)

(Office held or nature of Appointment)

SCHEDULE 3— WITHDRAWAL NOTICE
(Regulation 20 (2))



LAND TRANSPORT AUTHORITY
WITHDRAWAL NOTICE

LAND TRANSPORT (PHOTOGRAPHIC DETECTION DEVICE) REGULATIONS 2013

TRAFFIC INFRINGEMENT NOTICE NO.:

To: _____ (Name of owner of motor vehicle)

of: _____
(Address)

The registered owner of Motor Vehicle Registration No.:

Full Name: _____ Title: _____ Date of Birth: _____

Residential Address: _____

Postal Address: _____ Phone No.: _____

WITHDRAWAL NOTICE

Upon receiving your Statutory Declaration dated _____ and upon disclosure of the Name of the Driver of the said Motor Vehicle, the Land Transport Authority pursuant to Regulation 20 of the Land Transport (Photographic Detection Device) Regulations 2013 hereby withdraws Traffic Infringement Notice No. _____ served on you on the _____ day of _____ 20 ____.

(Name of Authorised Officer) (Signature of Authorised Officer) (Date)