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# Update Summary

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**UPDATE 292**

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## **MOTOR VEHICLE LAW NEW SOUTH WALES**

Nic Angelov

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## COMMENTARY

The following new and updated commentary is provided by **Nic Angelov**.

### ***Road Rules 2014***

The definition of a mobile phone is discussed with reference to *Director of Public Prosecutions (NSW) v Esequé* [2023] NSWSC 1579. See [RR.300.80].

The purpose of the legislation is considered in regard to *Director of Public Prosecutions (NSW) v Esequé* [2023] NSWSC 1579. See [RR.300.120].

Mobile phone use is looked at with reference to *Director of Public Prosecutions (NSW) v Esequé* [2023] NSWSC 1579. See [RR.300-1.20].

### ***Road Transport Act 2013***

Section 64(10) – correction of register – is looked at with reference to *CB Cars 2 Pty Ltd v Phantom International Pty Ltd* [2023] NSWDC 334. See [RTA.64.40].

New commentary on absolute liability – honest and reasonable mistake of fact not available – is considered in regard to *Narouz v R* [2023] NSWDC 293. See [RTA.111.30].

*R v Crane* [2023] NSWDC 315 is referred to at [RTA.112.50].

Negligence – onus on defendant and res ipsa loquitur – is looked at with reference to *Insurance Australia Ltd (t/as NRMA) v Richards* [2023] NSWSC 909. See [RTA.117.400].

*R v Edwards* [2023] NSWDC 530 is referred to at [RTA.117.1240].

Statutory declaration is considered in regard to *R v Doumit* [2023] NSWDC 558. See [RTA.190.20].

Costs are considered in regard to *Director of Public Prosecutions (NSW) v Esequé* [2024] NSWSC 141 and *R v Issa* [2023] NSWDC 333. See [RTA.200.200].

“if the driver is charged” is discussed in regard to *Commissioner of Police (NSW) v Claydon* [2023] NSWSC 1041. See [RTA.224.40].

Section 268(3) and (5) are considered with reference to *Commissioner of Police (NSW) v Claydon* [2023] NSWSC 1041. See [RTA.268.30] and [RTA.268.40].

Finality – appeals to the Supreme Court – is discussed in regard to cases including *Commissioner of Police (NSW) v Claydon* [2023] NSWSC 1041. See [RTA.270.60].

### ***Heavy Vehicle National Law (NSW)***

Extended liability – permits – is discussed in regard to *R v Mainfreight Pty Ltd* [2023] NSWDC 459. See [HVNL.102.20].

New commentary on production of documents is provided with reference to *R v Mainfreight Pty Ltd* [2023] NSWDC 459. See [HVNL.569.10].

