



New South Wales

Government Sector Employment Amendment (Transport Service Senior Executives) Regulation 2017

under the

Government Sector Employment Act 2013

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Government Sector Employment Act 2013*.

GLADYS BEREJIKLIAN, MP
Premier

Explanatory note

The object of this Regulation is to amend the *Government Sector Employment Regulation 2014* as a consequence of the amendments made by the *Government Sector Employment Legislation Amendment Act 2016* to the *Transport Administration Act 1988* that align the employment arrangements for senior executives in the Transport Service with those that apply to Public Service senior executives. The Regulation also makes it clear that the employment of a Health Service senior executive may be terminated by the employer of the executive (or by the Secretary of the Ministry of Health) under section 121H of the *Health Services Act 1997* for misconduct.

This Regulation is made under the *Government Sector Employment Act 2013*, including section 39 (4) (as applied by section 68H (3) of the *Transport Administration Act 1988*) and section 88 (the general regulation-making power), in particular section 88 (3A) (as applied by section 68N (4) of the *Transport Administration Act 1988*).

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1 Name of Regulation

This Regulation is the *Government Sector Employment Amendment (Transport Service Senior Executives) Regulation 2017*.

2 Commencement

This Regulation commences on 1 July 2017 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Government Sector Employment Regulation 2014

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

Transport Secretary means the Secretary of the Department of Transport.

Transport Service senior executive means a person employed in the Transport Service as a Transport Service senior executive.

Transport Service senior manager means a person employed in the Transport Service as a Transport Service senior manager.

[2] Clause 16 Extended leave entitlements

Omit “section 68F” from the note to the clause. Insert instead “section 68Q (2)”.

[3] Clause 24 Repayment of severance or redundancy payments for non-executives on re-employment in public sector: section 88 (3) of Act

Omit clause 24 (4) (including the note). Insert instead:

(4) This clause does not apply to any of the following:

- (a) Public Service senior executives,
- (b) Health Service senior executives,
- (c) Transport Service senior executives and Transport Service senior managers.

Note. In the case of Public Service senior executives, see section 41 (3) of the Act and clause 39 of this Regulation.

In the case of Health Service senior executives, see section 121H (3) of the *Health Services Act 1997* and clause 41 of this Regulation.

In the case of Transport Service senior executives and senior managers, see section 68N (3) of the *Transport Administration Act 1988* and clause 44 of this Regulation.

[4] Clause 41 Compensation for termination of employment (except for misconduct) and calculation of proportionate amount to be refunded on re-employment in public sector

Insert “(except for misconduct)” after “*Health Services Act 1997*” wherever occurring in clause 41 (1) (a) and (b).

[5] Clause 41 (2)

Insert “under section 121H of the *Health Services Act 1997*” after “terminated”.

[6] Part 6

Insert after Part 5:

Part 6 Additional provisions relating to Transport Service senior executives and senior managers

43 Additional matters to be dealt with in contract of employment of Transport Service senior executives

The following matters are prescribed for the purposes of section 39 (4) (i) of the Act in relation to Transport Service senior executives:

- (a) matters relating to confidentiality and intellectual property,
- (b) capability-based assessments,
- (c) matters of an administrative or ancillary nature that, in the opinion of the Transport Secretary, are necessary or convenient to be dealt with in the contract of employment.

44 Calculation of proportionate amount of compensation to be refunded on re-employment in public sector

The proportionate amount of compensation to be refunded under section 68N (3) of the *Transport Administration Act 1988* is to be calculated on the basis of the number of weeks (if any) that remain as part of the period to which the compensation relates.