

1995—No. 526

TRANSPORT ADMINISTRATION ACT 1988—REGULATION

(Transport Administration (Staff) Regulation 1995)

NEW SOUTH WALES



[Published in Gazette No. 105 of 1 September 1995]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Transport Administration Act 1988, has been pleased to make the Regulation set forth hereunder.

BRIAN LANGTON, M.P.,
Minister for Transport.

PART I—PRELIMINARY

Citation

1. This Regulation may be cited as the Transport Administration (Staff) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. In this Regulation:

“**appointment**” includes appointment by way of promotion, transfer or regression;

“**promotion**” means the appointment of a person to a position with a greater maximum salary than the maximum salary for the position held by the person immediately before the appointment;

“**regression**” means the appointment of a person to a position with a lesser maximum salary than the maximum salary for the position held by the person immediately before the appointment;

- “**RTA**” means the Roads and Traffic Authority;
- “**RTA officer**” means an officer or employee of the RTA;
- “**salary**” includes wages or other remuneration;
- “**SRA**” means the State Rail Authority;
- “**SRA officer**” includes an employee of the SRA, but does not include a casual or temporary employee;
- “**STA**” means the State Transit Authority;
- “**STA officer**” includes an employee of the STA, but does not include a casual or temporary employee;
- “**the Act**” means the Transport Administration Act 1988;
- “**transfer**” means the appointment of a person to a position with the same maximum salary as the maximum salary for the position held by the person immediately before the appointment;
- “**Transport Appeal Board**” means a Transport Appeal Board constituted under the Transport Appeal Boards Act 1980.

PART 2—SRA STAFF

Division 1—Appointment of SRA officers

Advertising of vacancies

4. (1) Unless the SRA otherwise determines, vacancies in SRA officers’ positions must be advertised before they are filled.

(2) Vacancies may be advertised either within the service of the SRA or both within and outside the service of the SRA.

(3) In deciding to appoint a person to a vacant SRA officer’s position that has been advertised, the SRA may only select a person who has duly applied for appointment to the vacant position.

(4) The SRA:

- (a) may extend the time stipulated in an advertisement for lodging applications for a vacant position; or
- (b) may decline to appoint any of the applicants for a vacant position that has been advertised; or
- (c) may re-advertise a vacancy; or
- (d) may determine that a vacancy that was advertised should be filled as if it had not been advertised.

Appointments from within or outside service of SRA

5. (1) The SRA may appoint to any SRA officer's position in the service of the SRA:

- (a) a person already engaged in that service; or
- (b) a person not engaged in that service.

(2) The SRA may arrange competitive examinations or take other measures for determining suitability for appointment to vacant SRA officers' positions.

Merit appointments

6. (1) This clause applies to appointments to fill any vacancy in an SRA officer's position.

(2) For the purpose of determining the merit of persons eligible for appointment to a position, the SRA must have regard to:

- (a) the nature of the duties of the position; and
- (b) the abilities, qualifications, experience, standard of work performance and personal qualities of those persons that are relevant to the performance of those duties.

(3) If a vacant SRA officer's position has been advertised, the SRA must, from among the applicants eligible for appointment, select the applicant who has, in the opinion of the SRA, the greatest merit.

(4) If a vacant SRA officer's position has not been advertised, the SRA:

- (a) may appoint any person who is not an SRA officer; or
- (b) may appoint an SRA officer by way of promotion, if the officer has, in the opinion of the SRA, the greatest merit of the SRA officers eligible for promotion; or
- (c) may appoint an SRA officer by way of transfer or regression.

(5) This clause applies to positions advertised within the service of the SRA as well as to positions advertised both within and outside the service of the SRA.

Promotion appeals and reviews

7. (1) For the purposes of this clause, an appointment to a position is subject to appeal if:

- (a) the appointment is to an SRA officer's position with a maximum salary that is below the minimum salary for the position of senior officer, class 1; and
- (b) the vacancy in the position was advertised or, if not advertised, the appointment was made by promotion.

(2) An SRA officer may apply for a review by the SRA of the appointment of an SRA officer to a position that is subject to appeal.

(3) An application for such a review may only be made:

- (a) in the case of a vacancy that is advertised—by an SRA officer who was an unsuccessful applicant for the vacant position; or
- (b) in the case of a vacancy that is not advertised—by an SRA officer who was seeking promotion to the vacant position but who was not selected.

(4) An application for such a review must be made within 7 days of the SRA notifying its decision on the vacancy to the unsuccessful applicant or in a notice circulated among SRA officers seeking promotion, as the case requires.

(5) An SRA officer entitled to apply for such a review may appeal to a Transport Appeal Board against the appointment concerned, but only if:

- (a) the officer applied for the review and the application was not successful; or
- (b) the officer applied for the review and the review was not completed within 30 days of the application for review.

(6) The decision to appoint to a position a person who is not an SRA officer is not subject to review under this clause or to appeal to a Transport Appeal Board.

(7) The only ground on which an SRA officer may, under this clause, seek a review or appeal to a Transport Appeal Board is that the merit of the officer is greater than that of the officer selected.

Appointment on probation

8. (1) Every person appointed to the service of the SRA as an SRA officer must, in the first instance, be appointed on probation for a period of 6 months.

(2) In a particular case, the SRA may make an appointment without probation.

(3) The SRA may, during the period of probation, extend the period of probation, but the total period of probation may not exceed 12 months.

(4) A period of leave (with or without pay) must not be included in calculating any such total period of 12 months.

(5) The SRA may, during or after the period of probation, confirm the SRA officer's appointment or discharge the officer from the service of the SRA.

(6) A decision to discharge an SRA officer is not subject to appeal to a Transport Appeal Board.

Provisional appointments

9. (1) The SRA may make provisional appointments of SRA officers by way of promotion, transfer or regression.

(2) An SRA officer provisionally appointed to a position may act in that position until the appointment is confirmed.

(3) The provisional appointment of an SRA officer to a position that is subject to appeal (within the meaning of clause 7) must not be confirmed:

- (a) until the period for lodging an appeal has expired; and
- (b) if an appeal is lodged within that period—until the appeal has been determined or withdrawn.

Division 2—Conditions of employment

Sick leave

10. (1) SRA officers and other employees of the SRA are entitled to receive and accrue the same sick leave entitlements as public servants under the Public Sector Management Act 1988 and the regulations made under that Act.

(2) This clause does not apply to any class of casual or temporary employees determined by the SRA.

Employment outside official duties

11. (1) An SRA officer must not, except with the permission of the SRA:

- (a) hold any paid office or engage in any paid employment; or
- (b) carry on any business or engage in the private practice of any profession,

outside the duties of the officer's position.

(2) The SRA may withdraw any such permission at any time.

(3) For the purposes of this clause, an SRA officer is taken to hold a paid office or engage in paid employment even though:

- (a) the officer does not accept payments to which the officer is entitled for the officer's services; or
- (b) the officer only accepts an honorarium or allowance for the officer's services.

(4) An SRA officer who contravenes this clause is taken to be guilty of misconduct for the purposes of disciplinary proceedings.

Division 3—Disciplinary proceedings against SRA officers

Punishments in disciplinary proceedings

12. (1) The SRA may impose any one or more of the following punishments in disciplinary proceedings against an SRA officer:

- (a) a caution or reprimand;
- (b) a fine of an amount not exceeding \$100;
- (c) reduction in position, rank or grade and pay;
- (d) suspension from duty without pay;
- (e) dismissal.

(2) Instead of dismissing an SRA officer, the SRA may allow the officer to resign.

(3) The SRA may deduct a fine imposed on an SRA officer from the officer's salary.

(4) This Division must not be construed as requiring the taking of disciplinary proceedings in order that the SRA may dispense with the services of an SRA officer or other employee of the SRA.

Suspension of SRA officer pending disciplinary proceedings

13. (1) An SRA officer may be temporarily suspended from duty:

- (a) by the SRA; or
- (b) by any other SRA officer who is senior in position, rank or grade,

pending the institution or determination of disciplinary proceedings against the officer.

(2) The SRA may at any time terminate any such suspension.

(3) The SRA may withhold the payment of salary to an SRA officer suspended from duty.

SRA officers convicted of serious criminal offences

14. (1) The SRA may take disciplinary proceedings against an SRA officer who is convicted of a serious criminal offence.

(2) For the purposes of this clause, “serious criminal offence” means an offence committed in New South Wales which is punishable by penal servitude or imprisonment for 6 months or more or an offence committed elsewhere which, if it had been committed in New South Wales, would be an offence so punishable.

Procedure in disciplinary proceedings

15. (1) An SRA officer who is subject to disciplinary proceedings is entitled to be notified in writing by the SRA of the charge and of the particulars of the charge.

(2) A formal hearing is not required to be held before the person or body investigating the matter the subject of any such charge, but the SRA officer charged may make representations to that person or body.

Disciplinary appeals to Transport Appeal Board

16. An SRA officer may appeal to a Transport Appeal Board against:

- (a) a decision of the SRA to impose a punishment referred to in clause 12 (1) (b)–(e) in disciplinary proceedings against the officer; or
- (b) a decision to temporarily suspend the officer under clause 13.

Division 4—Miscellaneous

Appeals to Transport Appeal Board—general

17. An appeal does not lie to a Transport Appeal Board against any decision of the SRA or an SRA officer or other employee of the SRA unless a right to make the appeal is expressly conferred by this Part.

Return of property on termination of employment

18. (1) An SRA officer or other employee of the SRA must, within 7 days of the termination or suspension of the person's employment, return any property belonging to the SRA that is in the person's possession at the time of that termination or suspension.

(2) In this clause, "termination" means resignation, retirement, dismissal, retrenchment or other cessation of employment, and includes unauthorised absence from duty.

PART 3—STA STAFF**Division 1—Appointment of STA officers****Advertising of vacancies**

19. (1) Unless the STA otherwise determines, vacancies in STA officers' positions must be advertised before they are filled.

(2) Vacancies may be advertised either within the service of the STA or both within and outside the service of the STA.

(3) In deciding to appoint a person to a vacant STA officer's position that has been advertised, the STA may only select a person who has duly applied for appointment to the vacant position.

(4) The STA:

- (a)** may extend the time stipulated in an advertisement for lodging applications for a vacant position; or
- (b)** may decline to appoint any of the applicants for a vacant position that has been advertised; or
- (c)** may re-advertise a vacancy; or
- (d)** may determine that a vacancy that was advertised should be filled as if it had not been advertised.

Appointments from within or outside service of STA

20. (1) The STA may appoint to any STA officer's position in the service of the STA:

- (a)** a person already engaged in that service; or
- (b)** a person not engaged in that service.

(2) The STA may arrange competitive examinations or take other measures for determining suitability for appointment to vacant STA officers' positions.

Merit appointments

21. (1) This clause applies to appointments to fill any vacancy in an STA officer's position, except an appointment to which clause 22 applies.

(2) For the purpose of determining the merit of persons eligible for appointment to a position, the STA must have regard to:

- (a) the nature of the duties of the position; and
- (b) the abilities, qualifications, experience, standard of work performance and personal qualities of those persons that are relevant to the performance of those duties.

(3) If a vacant STA officer's position has been advertised, the STA must, from among the applicants eligible for appointment, select the applicant who has, in the opinion of the STA, the greatest merit.

(4) If a vacant STA officer's position has not been advertised, the STA:

- (a) may appoint any person who is not an STA officer; or
- (b) may appoint an STA officer by way of promotion, if the STA officer has, in the opinion of the STA, the greatest merit of the STA officers eligible for promotion; or
- (c) may appoint an STA officer by way of transfer or regression.

(5) This clause applies to positions advertised within the service of the STA as well as to positions advertised both within and outside the service of the STA.

Senior suitable appointments

22. (1) This clause applies to appointments to fill a vacancy in an STA officer's position for the time being determined to be a position to which this clause applies by order in writing of the STA, being an appointment to fill a vacancy:

- (a) that has been advertised among STA officers only; or
- (b) that has not been advertised.

(2) For the purpose of appointments under this clause from among particular groups of STA officers, the STA may determine the relative seniority of STA officers within each group.

- (3) In making an appointment to which this clause applies, the STA:
- (a) if it decides to appoint an STA officer by way of promotion—must select the officer who is the most senior (within the relevant group) of the STA officers eligible for promotion and who is, in the opinion of the STA, suitable for appointment; or
 - (b) if it decides to appoint an STA officer by way of transfer or regression—must select the officer who is the most senior (within the relevant group) of the STA officers applying and eligible for transfer or regression and who is, in the opinion of the STA, suitable for appointment; or
 - (c) if it decides to select a person who is not an STA officer—must select a person who is, in the opinion of the STA, suitable for appointment.

(4) If the most senior STA officer eligible to be appointed to a vacant salaried clerical position under this clause is considered unsuitable for appointment and it is proposed to promote another STA officer, the person must not be passed over for promotion unless the matter has been referred to an appointments committee and the STA has taken into account the recommendations of that committee.

- (5) An appointments committee must comprise:
- (a) a convener nominated by the STA; and
 - (b) an STA officer in the area in which the vacancy exists nominated by the STA; and
 - (c) an STA officer nominated by the industrial union of employees of which, in the opinion of the STA, the majority of STA officers eligible to apply for appointment to the vacancy are members or eligible to be members.

Promotion appeals and reviews

23. (1) For the purposes of this clause, an appointment to a position is subject to appeal if:

- (a) the appointment is to an STA officer's position with a maximum salary that is below the minimum salary for the position of senior officer, class 1; and
- (b) the vacancy in the position was advertised or, if not advertised, the appointment was made by promotion.

(2) An STA officer may apply for a review by the STA of the appointment of an STA officer to a position that is subject to appeal.

- (3) An application for such a review may only be made:
- (a) in the case of a vacancy that is advertised—by an STA officer who was an unsuccessful applicant for the vacant position; or
 - (b) in the case of a vacancy that is not advertised—by an STA officer who was seeking promotion to the vacant position but who was not selected.

(4) An application for such a review must be made within 7 days of the STA notifying its decision on the vacancy to the unsuccessful applicant or in a notice circulated among STA officers seeking promotion, as the case requires.

(5) An STA officer entitled to apply for such a review may appeal to a Transport Appeal Board against the appointment concerned, but only if:

- (a) the officer applied for the review and the application was not successful; or
- (b) the officer applied for the review and the review was not completed within 30 days of the application for review.

(6) The decision to appoint to a position a person who is not an STA officer is not subject to review under this clause or to appeal to a Transport Appeal Board.

(7) The only ground on which an STA officer may, under this clause, seek a review or appeal to a Transport Appeal Board is:

- (a) in the case of an appointment to which clause 21 applies—that the merit of the officer is greater than that of the STA officer selected; or
- (b) in the case of an appointment to which clause 22 applies—that the officer is more senior than the STA officer selected and is suitable for appointment.

Appointment on probation

24. (1) Every person appointed to the service of the STA as an STA officer must, in the first instance, be appointed on probation for a period of 6 months.

(2) In a particular case, the STA may make an appointment without probation.

(3) The STA may, during the period of probation, extend the period of probation, but the total period of probation may not exceed 12 months.

(4) A period of leave (with or without pay) must not be included in calculating any such total period of 12 months.

(5) The STA may, during or after the period of probation, confirm the STA officer's appointment or discharge the officer from the service of the STA.

(6) A decision to discharge an STA officer is not subject to appeal to a Transport Appeal Board.

Provisional appointments

25. (1) The STA may make provisional appointments of STA officers by way of promotion, transfer or regression.

(2) An STA officer provisionally appointed to a position may act in that position until the appointment is confirmed.

(3) The provisional appointment of an STA officer to a position that is subject to appeal (within the meaning of clause 23) must not be confirmed:

- (a) until the period for lodging an appeal has expired; and
- (b) if an appeal is lodged within that period—until the appeal has been determined or withdrawn.

Division 2—Conditions of employment

Sick leave

26. (1) STA officers and other employees of the STA are entitled to receive and accrue the same sick leave entitlements as public servants under the Public Sector Management Act 1988 and the regulations made under that Act.

(2) This clause does not apply to any class of casual or temporary employees determined by the STA.

Employment outside official duties

27. (1) An STA officer must not, except with the permission of the STA:

- (a) hold any paid office or engage in any paid employment; or
- (b) carry on any business or engage in the private practice of any profession,

outside the duties of the officer's position.

(2) The STA may withdraw any such permission at any time.

(3) For the purposes of this clause, an STA officer is taken to hold a paid office or engage in paid employment even though:

- (a) the officer does not accept payments to which the officer is entitled for the officer's services; or
- (b) the officer only accepts an honorarium or allowance for the officer's services.

(4) An STA officer who contravenes this clause is taken to be guilty of misconduct for the purposes of disciplinary proceedings.

Division 3—Disciplinary proceedings against STA officers

Punishments in disciplinary proceedings

28. (1) The STA may impose any one or more of the following punishments in disciplinary proceedings against an STA officer:

- (a) a caution or reprimand;
- (b) a fine of an amount not exceeding \$100;
- (c) reduction in position, rank or grade and pay;
- (d) suspension from duty without pay;
- (e) dismissal.

(2) Instead of dismissing an STA officer, the STA may allow the officer to resign.

(3) The STA may deduct a fine imposed on an STA officer from the officer's salary.

(4) This Division must not be construed as requiring the taking of disciplinary proceedings in order that the STA may dispense with the services of an STA officer or other employee of the STA.

Suspension of STA officer pending disciplinary proceedings

29. (1) An STA officer may be temporarily suspended from duty:

- (a) by the STA; or
- (b) by any other STA officer who is senior in position, rank or grade,

pending the institution or determination of disciplinary proceedings against the officer.

(2) The STA may at any time terminate any such suspension.

(3) The STA may withhold the payment of salary to an STA officer suspended from duty.

STA officers convicted of serious criminal offences

30. (1) The STA may take disciplinary proceedings against an STA officer who is convicted of a serious criminal offence.

(2) For the purposes of this clause, “serious criminal offence” means an offence committed in New South Wales which is punishable by penal servitude or imprisonment for 6 months or more or an offence committed elsewhere which, if it had been committed in New South Wales, would be an offence so punishable.

Procedure in disciplinary proceedings

31. (1) An STA officer who is subject to disciplinary proceedings is entitled to be notified in writing by the STA of the charge and of the particulars of the charge.

(2) A formal hearing is not required to be held before the person or body investigating the matter the subject of any such charge, but the STA officer charged may make representations to that person or body.

Disciplinary appeals to Transport Appeal Board

- 32.** An STA officer may appeal to a Transport Appeal Board against:
- (a) a decision of the STA to impose a punishment referred to in clause 28 (1) (b)–(e) in disciplinary proceedings against the officer; or
 - (b) a decision to temporarily suspend the officer under clause 29.

Division 4—Miscellaneous

Appeals to Transport Appeal Board—general

33. An appeal does not lie to a Transport Appeal Board against any decision of the STA or an STA officer or other employee of the STA unless a right to make the appeal is expressly conferred by this Part.

Return of property on termination of employment

34. (1) An STA officer or other employee of the STA must, within 7 days of the termination or suspension of the person’s employment, return any property belonging to the STA that is in the person’s possession at the time of that termination or suspension.

(2) In this clause, “termination” means resignation, retirement, dismissal, retrenchment or other cessation of employment, and includes unauthorised absence from duty.

PART 4—RTA STAFF

Temporary suspension

35. (1) An RTA officer may be temporarily suspended from duty by the RTA pending:

- (a) the institution or determination by the RTA of disciplinary action against the officer; or
- (b) the determination by a court of any charge against the officer for a serious criminal offence.

(2) The RTA may remove a suspension at any time.

(3) If:

- (a) disciplinary action is instituted by the RTA against an RTA officer; or
- (b) an RTA officer is charged with having committed a serious criminal offence,

any salary payable to the officer while the officer is suspended from duty is (if the Chief Executive of the RTA so directs) to be withheld.

(4) Salary so withheld may (if the Chief Executive so directs) be subsequently paid to the RTA officer whatever the result of the disciplinary action or charge.

(5) In this clause:

“**disciplinary action**” includes:

- (a) disciplinary interviews or inquiries in connection with the conduct of an officer of the RTA; and
- (b) disciplinary charges against an officer of the RTA, whether made orally or in writing;

“**serious criminal offence**” means an offence committed in New South Wales which is punishable by penal servitude or imprisonment for 6 months or more or an offence committed elsewhere which, if it had been committed in New South Wales, would be an offence so punishable.

PART 5—MISCELLANEOUS
Repeals

36. (1) The following Regulations are repealed:

- (a) the Transport Administration (RTA Staff Discipline) Regulation 1989;
- (b) the Transport Administration (STA Staff) Regulation 1989;
- (c) the Transport Administration (SRA Staff) Regulation 1989.

(2) Any act, matter or thing that, immediately before the repeal of a regulation referred to in subclause (1), had effect under that regulation continues to have effect under this Regulation.

NOTES
TABLE OF PROVISIONS

PART 1—PRELIMINARY

- 1. Citation
- 2. Commencement
- 3. Definitions

PART 2—SRA STAFF

Division 1—Appointment of SRA officers

- 4. Advertising of vacancies
- 5. Appointments from within or outside service of SRA
- 6. Merit appointments
- 7. Promotion appeals and reviews
- 8. Appointment on probation
- 9. Provisional appointments

Division 2—Conditions of employment

- 10. Sick leave
- 11. Employment outside official duties

Division 3—Disciplinary proceedings against SRA officers

- 12. Punishments in disciplinary proceedings
- 13. Suspension of SRA officer pending disciplinary proceedings
- 14. SRA officers convicted of serious criminal offences
- 15. Procedure in disciplinary proceedings
- 16. Disciplinary appeals to Transport Appeal Board

1995—No. 526

Division 4—Miscellaneous

- 17. Appeals to Transport Appeal Board—general
- 18. Return of property on termination of employment

PART 3—STA STAFF

Division 1—Appointment of STA officers

- 19. Advertising of vacancies
- 20. Appointments from within or outside service of §TA
- 21. Merit appointments
- 22. Senior suitable appointments
- 23. Promotion appeals and reviews
- 24. Appointment on probation
- 25. Provisional appointments

Division 2—Conditions of employment

- 26. Sick leave
- 27. Employment outside official duties

Division 3—Disciplinary proceedings against STA officers

- 28. Punishments in disciplinary proceedings
- 29. Suspension of STA officer pending disciplinary proceedings
- 30. STA officers convicted of serious criminal offences
- 31. Procedure in disciplinary proceedings
- 32. Disciplinary appeals to Transport Appeal Board

Division 4—Miscellaneous

- 33. Appeals to Transport Appeal Board—general
- 34. Return of property on termination of employment

PART 4—RTA STAFF

- 35. Temporary suspension

PART 5—MISCELLANEOUS

- 36. Repeals
-

EXPLANATORY NOTE

The objects of this Regulation are to repeal various regulations and to remake them in a single Regulation. The new Regulation deals with the following matters:

- (a) the appointment, conditions of employment and discipline for members of staff of the State Rail Authority (Part 2);
- (b) the appointment, conditions of employment and discipline for members of staff of the State Transit Authority (Part 3);

1995—No. 526

(c) the temporary suspension of members of staff of the Roads and Traffic Authority (Part 4);

(d) other formal matters (Parts 1 and 5).

This Regulation is made under the Transport Administration Act 1988, including section 119 (the general regulation making power).

This Regulation relates to matters that do not impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
