



New South Wales

Transport Administration (Staff) Regulation 2005

under the

Transport Administration Act 1988

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Transport Administration Act 1988*.

JOHN WATKINS, M.P.,
Minister for Transport

Explanatory note

The object of this Regulation is to replace, without substantial alteration, the provisions of the *Transport Administration (Staff) Regulation 2000*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) the appointment of officers of the State Rail Authority, including advertising of vacancies, outside appointments, merit appointments, appeals and reviews, appointment on probation and provisional appointments (Part 2, Division 1),
- (b) the conditions of employment of officers of the State Rail Authority, including sick leave entitlements and outside employment restrictions (Part 2, Division 2),
- (c) disciplinary proceedings against officers of the State Rail Authority, including punishments that may be imposed, temporary suspension, proceedings against officers convicted of serious criminal offences, procedure and appeals (Part 2, Division 3),
- (d) miscellaneous matters relating to officers of the State Rail Authority, including appeal rights and return of property to the Authority on termination of employment (Part 2, Division 4),
- (e) the appointment of officers of the State Transit Authority, including advertising of vacancies, outside appointments, merit appointments, appeals and reviews, appointment on probation and provisional appointments (Part 3, Division 1),
- (f) the conditions of employment of officers of the State Transit Authority, including sick leave entitlements, outside employment restrictions and retirement of officers on medical grounds (Part 3, Division 2),

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- (g) disciplinary proceedings against officers of the State Transit Authority, including punishments that may be imposed, temporary suspension, proceedings against officers convicted of serious criminal offences, procedure and appeals (Part 3, Division 3),
- (h) miscellaneous matters relating to officers of the State Transit Authority, including appeal rights and return of property to the Authority on termination of employment (Part 3, Division 4),
- (i) temporary suspension of officers of the Roads and Traffic Authority (Part 4),
- (j) formal matters and savings (Parts 1 and 5).

This Regulation is made under the *Transport Administration Act 1988*, including section 119 (the general regulation-making power) and the other sections referred to in the Regulation.

This Regulation deals with matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Transport Administration (Staff) Regulation 2005

under the

Transport Administration Act 1988

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Transport Administration (Staff) Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Transport Administration (Staff) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

appointment includes appointment by way of promotion, transfer or regression.

disciplinary appeal means an appeal under clause 16 or 32.

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.

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STA officer includes an employee of the STA, but does not include a casual or temporary employee.

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*.

- (2) Notes included in this Regulation do not form part of this Regulation.

Part 2 SRA staff

Division 1 Appointment of SRA officers

4 Advertising of vacancies

- (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 select only a person who has duly applied for appointment to the vacant position.
- (4) The SRA may do any one or more of the following:
 - (a) extend the time stipulated in an advertisement for lodging applications for a vacant position,
 - (b) decline to appoint any of the applicants for a vacant position that has been advertised,
 - (c) re-advertise a vacancy.
- (5) Despite subclause (3), if:
 - (a) there are no applicants for a vacant SRA position that has been advertised, or
 - (b) the SRA has declined to appoint any applicant to the position, the SRA may fill the position as if it had not been advertised.

5 Appointments from within or outside service of SRA

- (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.

6 Merit appointments

- (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:

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Part 2 SRA staff

- (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, subject to clause 4 (5), select from among the applicants eligible for appointment the applicant who, in the opinion of the SRA, has 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.

7 Promotion appeals

- (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.
- (2) An SRA officer may appeal to a Transport Appeal Board against the appointment of an SRA officer to a position that is subject to appeal.
- (3) An appeal may be lodged only by an SRA officer who was an unsuccessful applicant for the vacant position.
- (4) Despite subclause (1), a decision to appoint:
 - (a) an SRA officer to a position that was not advertised (or that the SRA filled under clause 4 (5) as if it had not been advertised), or
 - (b) a person who is not an SRA officer to any position,is not subject to appeal to a Transport Appeal Board.
- (5) The only ground on which an SRA officer may, under this clause, appeal to a Transport Appeal Board is that the merit of the officer is greater than that of the officer selected.

Note. Part 3 of the *Transport Appeal Boards Act 1980* applies to appeals to a Transport Appeal Board.

8 Appointment on probation

- (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 or such shorter period as the SRA determines.
- (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 a period of probation under this clause.
- (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.

9 Provisional appointments

- (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**10 Sick leave**

- (1) Except as otherwise provided by any industrial agreement, award or other instrument to which the SRA is a party, SRA officers and other employees of the SRA are entitled to receive and accrue the same sick leave entitlements as persons employed in the Public Service of New South Wales under the *Public Sector Employment and Management Act 2002* 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.

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Clause 11 Transport Administration (Staff) Regulation 2005

Part 2 SRA staff

11 Employment outside official duties

- (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 by notice in writing given to the SRA officer concerned, 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 accepts only 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

12 Punishments in disciplinary proceedings

- (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.

13 Suspension of SRA officer pending disciplinary proceedings

- (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.

14 SRA officers convicted of serious criminal offences

- (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 that is punishable by imprisonment for 6 months or more or an offence committed elsewhere that, if it had been committed in New South Wales, would be an offence so punishable.

15 Procedure in disciplinary proceedings

- (1) An SRA officer who is subject to disciplinary proceedings is entitled to be notified in writing by the SRA of the particulars of the alleged behaviour giving rise to the proceedings.
- (2) A formal hearing is not required to be held before the person or body investigating the alleged behaviour, but the SRA officer the subject of the proceedings may make representations to that person or body.

16 Disciplinary appeals to Transport Appeal Board

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 suspend the officer temporarily under clause 13.

Division 4 Miscellaneous**17 Appeals to Transport Appeal Board—general**

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.

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Clause 18 Transport Administration (Staff) Regulation 2005

Part 2 SRA staff

18 Return of property on termination of employment

- (1) An SRA officer or other employee of the SRA whose employment is terminated or suspended must, on the last day of the person's duty before the termination or suspension, return any property belonging to the SRA that is in the person's possession at that time.
- (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

19 Advertising of vacancies

- (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 select only a person who has duly applied for appointment to the vacant position.
- (4) The STA may do any one or more of the following:
 - (a) extend the time stipulated in an advertisement for lodging applications for a vacant position,
 - (b) decline to appoint any of the applicants for a vacant position that has been advertised,
 - (c) re-advertise a vacancy.
- (5) Despite subclause (3), if:
 - (a) there are no applicants for a vacant STA position that has been advertised, or
 - (b) the STA has declined to appoint any applicant to the position, the STA may fill the position as if it had not been advertised.

20 Appointments from within or outside service of STA

- (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.

21 Merit appointments

- (1) This clause applies to appointments to fill any vacancy in an STA officer's position.
- (2) For the purpose of determining the merit of persons eligible for appointment to a position, the STA must have regard to:

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Part 3 STA staff

- (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, subject to clause 19 (5), select from among the applicants eligible for appointment the applicant who, in the opinion of the STA, has 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.

22 Promotion appeals and reviews

- (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, band A, 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 be made only:
- (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 5 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.

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- (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 15 days after the application was made.
 - (6) Despite subclause (1), the decision to appoint to any 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 that the merit of the officer is greater than that of the STA officer selected.

23 Appointment on probation

- (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 3 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 6 months.
- (4) A period of leave (with or without pay) must not be included in calculating any such total period of 6 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.

24 Provisional appointments

- (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 22) must not be confirmed:

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Part 3 STA staff

- (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

25 Sick leave

- (1) Except as otherwise provided by any industrial agreement to which the STA is a party, STA officers and other employees of the STA are entitled to receive and accrue the same sick leave entitlements as persons employed in the Public Service of New South Wales under the *Public Sector Employment and Management Act 2002* 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.

26 Employment outside official duties

- (1) An STA officer must not, except with the prior written 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, by notice in writing given to the STA officer concerned, 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 accepts only 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.

27 Retirement of officers on medical grounds

If an STA officer becomes, as the result of the onset of a specified infirmity of body or mind, unable to carry out the inherent requirements of the officer's duties, the STA may cause the officer to be retired.

Division 3 Disciplinary proceedings against STA officers**28 Punishments in disciplinary proceedings**

- (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.

29 Suspension of STA officer pending disciplinary proceedings

- (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.

30 STA officers convicted of serious criminal offences

- (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 that is punishable by imprisonment for 6 months or more or an offence committed elsewhere that, if it had been committed in New South Wales, would be an offence so punishable.

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Clause 31 Transport Administration (Staff) Regulation 2005

Part 3 STA staff

31 Procedure in disciplinary proceedings

- (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.

32 Disciplinary appeals to Transport Appeal Board

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 suspend the officer temporarily under clause 29.

Division 4 Miscellaneous

33 Appeals to Transport Appeal Board—general

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.

34 Return of property on termination of employment

- (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

35 Temporary suspension

- (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 that is punishable by imprisonment for 6 months or more or an offence committed elsewhere that, if it had been committed in New South Wales, would be an offence so punishable.

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Clause 36 Transport Administration (Staff) Regulation 2005

Part 5 Miscellaneous

Part 5 Miscellaneous

36 Saving

Any act, matter or thing that, immediately before the repeal of the *Transport Administration (Staff) Regulation 2000*, had effect under that regulation is taken to have effect under this Regulation.

BY AUTHORITY
