



Transport Administration (General) Amendment (Transport Cleaning Services) Regulation 2012

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*.

GLADYS BEREJIKLIAN, MP
Minister for Transport

Explanatory note

The object of this Regulation is to constitute Transport Cleaning Services as a public subsidiary corporation of RailCorp. Transport Cleaning Services will exercise the functions of RailCorp with respect to cleaning and improved presentation of rolling stock, railway stations and platforms, rolling stock maintenance facilities and rail yard facilities.

This Regulation is made under the *Transport Administration Act 1988*, including sections 55C and 119 (the general regulation-making power).

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Clause 1 Transport Administration (General) Amendment (Transport Cleaning Services) Regulation 2012

**Transport Administration (General) Amendment
(Transport Cleaning Services) Regulation 2012**

under the

Transport Administration Act 1988

1 Name of Regulation

This Regulation is the *Transport Administration (General) Amendment (Transport Cleaning Services) Regulation 2012*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Transport Administration (General) Regulation 2005

Part 3A

Insert after Part 3:

Part 3A Transport Cleaning Services

21A Definitions

In this Part:

Executive Director means the Executive Director of Transport Cleaning Services appointed by the Chief Executive of RailCorp under clause 21D.

Transport Cleaning Services means the body corporate constituted by this Part.

21B Constitution of Transport Cleaning Services

For the purposes of section 55C of the Act, there is constituted by this Part a body corporate with the name of Transport Cleaning Services.

21C Functions of Transport Cleaning Services

- (1) Transport Cleaning Services has all the functions of RailCorp with respect to cleaning and improved presentation of rolling stock, railway stations and platforms, rolling stock maintenance facilities and rail yard facilities.
- (2) Section 10 of the Act applies to and in respect of Transport Cleaning Services in the same way as it applies to and in respect of RailCorp, but only so as to confer functions on Transport Cleaning Services for the purpose of enabling it to exercise its functions under subclause (1).

21D Executive Director

- (1) The Chief Executive of RailCorp, with the approval of the Minister, is to appoint a person as the Executive Director of Transport Cleaning Services.
- (2) The employment of the Executive Director is to be governed by a contract of employment between the Chief Executive of RailCorp (as employer) and the Executive Director.

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- (3) The affairs of Transport Cleaning Services are to be managed and controlled by the Executive Director in accordance with the directions of the Chief Executive of RailCorp.
- (4) Any act, matter or thing done in the name of, or on behalf of, Transport Cleaning Services by the Executive Director is taken to have been done by Transport Cleaning Services.

21E Ministerial responsibility

The Executive Director is, in the exercise of his or her functions, subject to the control and direction of the Minister.

21F Staff

- (1) Division 1A of Part 7 of the Act and the regulations made under section 58C of the Act apply to and in respect of Transport Cleaning Services in the same way as they apply to and in respect of RailCorp.
- (2) Section 58C (2) (c) of the Act, and any regulations made under section 58C (2) (c), do not apply in respect of the staff of Transport Cleaning Services.
- (3) Transport Cleaning Services may arrange for the use of the services of any staff or facilities of RailCorp. A person whose services are made use of under this clause remains a member of staff of RailCorp.

21G Supply of information to Minister

Section 17A of the Act applies to and in respect of Transport Cleaning Services in the same way as it applies to and in respect of RailCorp.

21H Delegation of functions

Section 17F of the Act applies to and in respect of Transport Cleaning Services as if a reference in that section to RailCorp included a reference to Transport Cleaning Services.

21I Financial provisions

The provisions of Divisions 1 (Financial provisions relating to RailCorp) and 4 (Financial provisions relating to Authorities generally) of Part 8 of the Act apply to and in respect of Transport Cleaning Services as if a reference in those provisions to RailCorp or to an Authority included a reference to Transport Cleaning Services, but not so as to authorise or require the establishment of any fund in addition to the RailCorp Fund.

21J Seal

Section 109 of the Act applies to and in respect of Transport Cleaning Services as if a reference in that section to an Authority included a reference to Transport Cleaning Services and a reference to the Chief Executive of the Authority included a reference to the Executive Director.

21K Contracts

Section 110 of the Act applies to and in respect of Transport Cleaning Services as if a reference in that section to a transport authority included a reference to Transport Cleaning Services.

21L Referral of disputes

Section 111 of the Act applies to and in respect of Transport Cleaning Services as if a reference in that section to a transport authority included a reference to Transport Cleaning Services.

21M Personal liability

Section 112 of the Act applies to and in respect of Transport Cleaning Services as if a reference in that section to a transport authority included a reference to Transport Cleaning Services and a reference to a member of a transport authority included a reference to the Executive Director.

21N Presumption of validity

Section 113 of the Act applies to and in respect of Transport Cleaning Services as if a reference in that section to a transport authority included a reference to Transport Cleaning Services.

21O Application of other Acts to Transport Cleaning Services

- (1) The provisions of or made under any Act other than the *Transport Administration Act 1988* apply to and in respect of Transport Cleaning Services as if a reference in those provisions to RailCorp included a reference to Transport Cleaning Services, except as provided by subclause (2).
- (2) The provisions of or made under the following Acts apply to and in respect of Transport Cleaning Services as if Transport Cleaning Services formed part of RailCorp and as though the exercise of functions by and operations of Transport Cleaning Services were the exercise of functions by and operations of RailCorp:
 - (a) *Public Finance and Audit Act 1983*,

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- (b) *Public Authorities (Financial Arrangements) Act 1987*,
- (c) *Annual Reports (Statutory Bodies) Act 1984*.

21P Effect of transfer of assets, rights and liabilities

- (1) This clause applies to the transfer to or by Transport Cleaning Services of any asset, right or liability under section 55C (5) of the Act, unless the instrument of transfer provides that this clause is not to apply to the transfer.
- (2) The following provisions have effect in relation to a transfer of any asset, right or liability:
 - (a) the asset vests in the transferee by virtue of this clause and without the need for any transfer, conveyance or assignment,
 - (b) the right or liability becomes by virtue of this clause the right or liability of the transferee,
 - (c) all proceedings relating to the asset, right or liability commenced before the transfer by or against the transferor pending immediately before the transfer are taken to be proceedings pending by or against the transferee,
 - (d) any act, matter or thing done or omitted to be done in relation to the asset, right or liability before the transfer by, to or in respect of the transferor is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee,
 - (e) the transferee has all the entitlements and obligations of the transferor in relation to those assets, rights and liabilities that the transferor would have had but for the order, whether or not those entitlements and obligations were actual or potential at the time the order took effect,
 - (f) a reference in any instrument made under any Act (other than the *Transport Administration Act 1988*) or in any document of any kind to the transferor is (to the extent that it relates to the asset, right or liability, but subject to this clause) to be read as, or as including, a reference to the transferee.
- (3) The operation of this clause is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or

- (c) as giving rise to any remedy by a party to a contract or instrument, or as causing or permitting the termination of any contract or instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or
 - (d) as an event of default under any contract or instrument.
- (4) No attornment to the transferee by a lessee from the transferor is required.
- (5) The Minister may, by notice in writing, confirm a transfer of particular assets, rights and liabilities by operation of this clause. Such a notice is considered conclusive evidence of that transfer.