



Passenger Transport Amendment (Ticketing) Regulation 2012

under the

Passenger Transport Act 1990

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Passenger Transport Act 1990*.

GLADYS BEREJIKLIAN, MP
Minister for Transport

Explanatory note

The object of this Regulation is to amend the *Passenger Transport Regulation 2007* to replace the provisions relating to ticketing (which currently only apply to travel on buses and ferries) so as to extend them to train travel and to include specific provisions relating to smartcards.

The Regulation also amends the *Rail Safety (Offences) Regulation 2008* consequentially to remove provisions relating to ticketing.

This Regulation is made as a consequence of the enactment of the *Passenger Transport Amendment (Ticketing and Passenger Conduct) Act 2012*.

This Regulation is made under the *Passenger Transport Act 1990*, including section 63 (the general regulation-making power).

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Clause 1 Passenger Transport Amendment (Ticketing) Regulation 2012

Passenger Transport Amendment (Ticketing) Regulation 2012

under the

Passenger Transport Act 1990

1 Name of Regulation

This Regulation is the *Passenger Transport Amendment (Ticketing) Regulation 2012*.

2 Commencement

This Regulation commences on 7 December 2012 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Passenger Transport Regulation 2007

[1] Part 6

Omit the Part. Insert instead:

Part 6 Tickets

Division 1 Preliminary

69 Definitions

In this Part:

concession ticket means:

- (a) in the case of a smartcard—a smartcard that is intended by TfNSW to provide for:
 - (i) free travel on public passenger vehicles or trains, or
 - (ii) travel on public passenger vehicles or trains at a reduced fare, and
- (b) in the case of any other ticket—a ticket issued free or at a reduced fare.

paid area of a ferry wharf means all parts of a ferry wharf (being a wharf for which ticket barriers or smartcard readers are installed) that are located between the place where ferries dock and the ticket barriers or smartcard readers.

Note. A ferry wharf that does not have a ticket barrier will not have a paid area. As at the commencement of this clause, only Manly Wharf, King Street Wharf (Darling Harbour) and the wharves at Circular Quay have ticket barriers.

public passenger service means the carriage of passengers for a fare or other consideration:

- (a) by a bus along a road or road related area, or along the whole or part of a transitway route, or
- (b) by vessel within any New South Wales waterway.

public passenger vehicle means:

- (a) a bus used to provide a regular passenger service, or
- (b) a ferry used to provide a regular passenger service.

read, in relation to a smartcard and a smartcard reader, means ascertain the amount, or travel entitlement, recorded on the smartcard and includes adding an amount to or deducting an amount from an amount so recorded.

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restricted area of a station means:

- (a) if the station has no ticket barriers or smartcard readers—the platform, and
- (b) if the station has ticket barriers or smartcard readers—the platform and all other parts of the station between the platform and the ticket barriers or smartcard readers.

scan, in relation to a smartcard, means hold the smartcard in front of a smartcard reader until such time as the smartcard reader indicates (by means of a display, sound or other signal) that it has read the smartcard.

Note. Scanning a smartcard is also commonly referred to as tapping on or tapping off.

station means:

- (a) a monorail station (whether or not on railway premises), and
 - (b) any other station on railway premises,
- and includes any place designated for the picking up and setting down of passengers on a railway.

ticket means an authority to travel on a public passenger vehicle or train that may take any of the following forms:

- (a) a printed ticket,
- (b) a smartcard,
- (c) any other thing issued by or on behalf of the operator of a public passenger service or rail passenger service or TfNSW for the purpose of authorising a person to travel on a public passenger vehicle or train used to carry on the service concerned.

valid ticket means:

- (a) a ticket (other than a smartcard) that is valid for travel in accordance with Division 2, or
- (b) a smartcard that is valid for travel in accordance with Division 3.

70 Meaning of “smartcard”

- (1) For the purposes of the definition of **smartcard** in section 3 (1) of the Act, a smartcard is a type of card, issued by or on behalf of TfNSW:
 - (a) on which an amount, or an entitlement to travel on public passenger vehicles or trains, may be recorded electronically, and

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- (b) which may be scanned at, and read electronically by, a smartcard reader for the purpose of enabling the person by whom the smartcard is held to pay for, or exercise an entitlement to, travel on public passenger vehicles or trains (regardless of whether the smartcard may also be used to pay for, or exercise a right to, travel on other public transport systems).
 - (2) Without limiting the way in which an entitlement to travel on a public passenger vehicle or train may be recorded on a smartcard, the entitlement may be limited by reference to any one or more (or any combination) of the following:
 - (a) the kinds of public passenger vehicles or trains on which the entitlement may be exercised,
 - (b) the geographical boundaries within which it may be exercised,
 - (c) the times or periods within which it may be exercised.

71 Meaning of “smartcard reader”

For the purposes of the definition of *smartcard reader* in section 3 (1) of the Act, a smartcard reader is a type of device that, under the authority of TfNSW:

- (a) is installed on a public passenger vehicle or train or at a place at which passengers may board or leave public passenger vehicles or trains (including a transport interchange) or is carried by an authorised officer, and
- (b) is of a make or model specified from time to time by TfNSW by notice published in the Gazette.

Division 2 Tickets other than smartcards

72 Application of Division

This Division applies to tickets other than smartcards.

73 Valid tickets

- (1) A ticket for a public passenger service or rail passenger service is valid for travel:
 - (a) only for the journey or journeys for which it is issued or in the zone or area for which it is issued, and
 - (b) in the case of a ticket that is issued for use on a particular day or days or for a particular period, only on the relevant day or days or during the relevant period, and

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- (c) in the case of a ticket showing the name of the person to whom it was issued—only by that person.
- (2) A ticket is not valid if:
 - (a) it is transferred in contravention of this Division, or
 - (b) it has been defaced, mutilated or altered, or
 - (c) any of the following information on the ticket is illegible:
 - (i) the number of the ticket,
 - (ii) the issue date or the expiry date (or both) of the ticket,
 - (iii) the names of bus stops, stations or light rail stops between which (or the zone or area within which) the ticket authorises travel,
 - (iv) the name (if shown) of the person to whom the ticket was issued.
- (3) However, an illegible, defaced, mutilated or altered ticket is valid if the illegibility, defacing, mutilation or alteration occurred as a result of the ordinary use of the ticket.

74 Tickets generally not transferable

- (1) A person who is issued with a ticket must not transfer (or offer to transfer) the ticket, or a portion of the ticket, to any person.
Maximum penalty: 5 penalty units.
- (2) This clause does not apply if:
 - (a) the ticket was bought on behalf of that other person and, in the case of a concession ticket, that other person is entitled to use that concession ticket, or
 - (b) the ticket:
 - (i) is not issued in any person's name, and
 - (ii) was issued for travel for a particular number of journeys at any time within a particular zone, for a particular distance or on a particular route, and
 - (iii) in the case of a concession ticket, the person is entitled to the ticket, or
 - (c) the transfer is authorised by the operator of the public passenger service or rail passenger service to which the ticket relates.

75 Alteration or defacement of tickets prohibited

A person must not, with intent to deceive, deface, mutilate or alter a ticket or make a ticket illegible (or, in the case of a ticket that has a magnetic strip, inoperative).

Maximum penalty: 5 penalty units.

Division 3 Smartcards**76 Valid smartcards**

- (1) A smartcard is valid for travel on a particular journey only if:
 - (a) the smartcard has been successfully processed for the journey or could have been successfully processed but was not able to be for reasons beyond the control of the person making the journey, and
 - (b) the smartcard is being used in accordance with the terms and conditions for its use published by TfNSW in the Gazette, and
 - (c) the journey is on a route or railway line that TfNSW has designated from time to time, by order published in the Gazette, as a route or railway line for which a smartcard may be used.
- (2) A smartcard is *successfully processed* if it is processed in accordance with clause 77D and the processing accepts the card as valid.

77 Making smartcard inoperative prohibited

A person must not, with intent to deceive, make a smartcard inoperative.

Maximum penalty: 5 penalty units.

Division 4 General provisions**77A Valid ticket required for travel**

- (1) A person must not travel, or attempt to travel, on a public passenger vehicle or train unless the person (or someone accompanying the person) holds a valid ticket for the person's travel.

Maximum penalty: 5 penalty units.

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- (2) This clause does not apply in the case of a person who does not hold a ticket if the person:
 - (a) boards a bus at a bus stop, a ferry at a ferry wharf or a train at a station where, at all relevant times before the person boarded, there were no facilities available for the issue of an appropriate ticket, or
 - (b) the person is a child of or under 3 years of age.
- (3) In this clause, **hold** a ticket means be able to produce the ticket on request.

77B Other offences in relation to fares and tickets

- (1) A person who is travelling on a train or ferry without having paid the correct fare for the travel concerned must not, without reasonable excuse, fail to pay the correct fare:
 - (a) on demand made by an authorised officer, or
 - (b) if no such demand has been made, as soon as facilities are available to pay the fare, whether on the train or ferry or at the station, stop or wharf at which the person's travel on the train or ferry is completed.Maximum penalty: 5 penalty units.
- (2) A person must not, knowingly and without reasonable excuse, travel on a train in a carriage or compartment of a class to which the person's ticket does not apply.
Maximum penalty: 5 penalty units.
- (3) In this clause, **train** includes any other form of transport (such as a bus) provided by the rail transport operator in substitution for a train.

77C Concession tickets

- (1) A person must not travel, or attempt to travel, on a public passenger vehicle or train on the authority of a concession ticket unless the person is entitled to the concession ticket.
Maximum penalty: 5 penalty units.
- (2) The driver of a public passenger vehicle or an authorised officer may direct a person:
 - (a) who is travelling in a public passenger vehicle or train on the authority of a concession ticket, or
 - (b) who processes a concession ticket under this Division, or

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- (c) who makes a concession ticket available for inspection under this Division,
to produce to the driver or authorised officer evidence (for example, the person's pensioner or student concession card) that the person is entitled to the concession ticket.
- (3) A person who is given such a direction must immediately comply with it.
Maximum penalty: 5 penalty units.
- (4) A person may not be prosecuted for offences under both subclause (1) and subclause (3) in relation to the same travel.
- (5) A person must not:
- (a) in or in connection with an application for a concession ticket or the issue or purchase of a concession ticket, or
 - (b) in purported compliance with a requirement made under this clause,
- knowingly give any information or tender any document that contains a false or misleading particular with respect to the age, occupation or status of the person to whom the application or direction relates.
Maximum penalty: 5 penalty units.
- (6) For the purposes of this Regulation, a person is entitled to a concession ticket if the person is of a class of persons determined by TfNSW as being entitled to the type of concession ticket concerned.

77D Tickets to be processed

- (1) A person must not, without reasonable excuse, do any of the following without processing (or without someone accompanying the person processing) a valid ticket for the person in accordance with this clause:
- (a) board a bus,
 - (b) enter (otherwise than by getting off a train), or leave, the restricted area of a station,
 - (c) enter (otherwise than by getting off a ferry), or leave, the paid area of a ferry wharf used for the purposes of, or in connection with, a regular ferry service,
 - (d) if there is no paid area of the ferry wharf—board or leave a ferry.
- Maximum penalty: 5 penalty units.

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- (2) For the purposes of this clause, a person processes a ticket:
- (a) in the case of a smartcard—by scanning it at an appropriate smartcard reader, and
 - (b) in the case of a ticket other than a smartcard:
 - (i) by ***automatic processing***, that is, by putting it into automatic processing equipment provided to read or record any details on the ticket, or
 - (ii) by providing the ticket for inspection by an authorised officer on request or an employee of the operator of the public passenger service or rail passenger service concerned, or
 - (iii) by allowing the ticket to be processed manually by an authorised officer or an employee of the operator of the public passenger service or rail passenger service concerned.
- (3) Subclause (1) (a) does not apply to a person who on boarding a bus buys a valid ticket from the driver of the bus.
- (4) A ticket (other than a smartcard) that is designed to be processed by automatic processing must not be processed by any other method unless:
- (a) the bus, ferry, ferry wharf or station concerned is not supplied with automatic processing equipment or the automatic processing equipment is not functioning, or
 - (b) the person has a reasonable excuse for not using the automatic processing equipment.
- (5) The operator of a bus that is being used to provide a regular bus service must ensure that the driver of the bus is provided with facilities that enable the driver to sell tickets for journeys on the bus, unless the bus:
- (a) is clearly designated as a bus on which only pre-paid tickets may be used, or
 - (b) is used to provide a free service.
- Maximum penalty: 5 penalty units.
- (6) The driver of a bus that is being used to provide a regular bus service must (unless the driver has a reasonable excuse for not doing so) ensure that tickets for journeys on the bus are processed in accordance with this clause.
- Maximum penalty: 5 penalty units.

77E Inspection of tickets

- (1) A person must make his or her ticket available for inspection by an authorised officer on that officer's request if the person:
- (a) is on, or has just left, a public passenger vehicle, or
 - (b) is in or has just left the paid area of a ferry wharf used for the purposes of, or in connection with, a regular ferry service, or
 - (c) is on a train or is in or has just left the restricted area of a station.

Maximum penalty: 5 penalty units.

- (2) A person who has just left the paid area of a ferry wharf used for the purposes of, or in connection with, a regular ferry service or the restricted area of a station does not commit an offence under this clause if the person's ticket has been:
- (a) captured by an automatic gate or other equipment provided to read or record any details on the ticket, or
 - (b) given to an authorised officer or employee of the operator of the ferry service or the rail passenger service concerned.

Division 5 Miscellaneous**77F Certificate evidence**

- (1) In proceedings for an offence against this Part, a certificate purporting to be signed by an authorised officer certifying that:
- (a) the officer is authorised under the Act to operate a smartcard reader, and
 - (b) a person named in the certificate produced a smartcard for inspection by the authorised officer, and
 - (c) the authorised officer used a smartcard reader to read information off that smartcard, and
 - (d) the reading took place on the date and at the time stated in the certificate, and
 - (e) the information specified in the certificate was obtained from that reading,
- is admissible and is prima facie evidence of the particulars certified in and by the certificate.
- (2) In proceedings for an offence against this Part, evidence of the condition of a smartcard reader, or of the manner in which it was operated, is not required unless evidence sufficient to raise doubt

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that the smartcard reader was in proper condition and properly operated has been adduced.

[2] Clause 217 Penalty notice offences

Insert after clause 217 (1):

- (1A) Despite subclause (1) (b), the prescribed penalty for an offence under clause 74 (1), 77A (1), 77B (1) or (2), 77C (1), (3) or (5), 77D (1) or 77E (1) of this Regulation is \$50 if the person who is alleged to have committed the offence is under the age of 18 years.

[3] Schedule 3 Penalty notice offences

Omit the matter relating to clauses 73, 74 (1), 75, 76 and 77 (1) from Part 2.

[4] Schedule 3, Part 2

Insert in appropriate order in Columns 1 and 2 of Part 2:

Clause 74 (1)	\$200
Clause 75	\$200
Clause 77	\$200
Clause 77A (1)	\$200
Clause 77B (1)	\$200
Clause 77B (2)	\$200
Clause 77C (1)	\$200
Clause 77C (3)	\$200
Clause 77C (5)	\$200
Clause 77D (1)	\$200
Clause 77D (5)	\$200
Clause 77D (6)	\$200
Clause 77E (1)	\$200

Schedule 2 Rail Safety (Offences) Regulation 2008

- [1] **Clause 3 Definitions**
Omit the definitions of *concession ticket* and *ticket*.
- [2] **Clause 3 (1), definition of “the Act”**
Omit “*Rail Safety Act 2008*”. Insert instead “*Passenger Transport Act 1990*”.
- [3] **Clause 3 (1), definition of “valid ticket”**
Omit the definition. Insert instead:
valid ticket has the same meaning as in Part 6 of the *Passenger Transport Regulation 2007*.
- [4] **Part 2 Tickets and payment of fares**
Omit the Part.
- [5] **Clause 57 Penalty notice offences**
Omit “section 139” from clause 57 (1). Insert instead “section 59”.
- [6] **Clause 57 (1) (b)**
Omit “subject to subclause (2),”.
- [7] **Clause 57 (2)**
Omit the subclause.
- [8] **Schedule 1 Penalty notice offences**
Omit Parts 1 and 2.
- [9] **Schedule 1, Part 3**
Omit the matter relating to clauses 4–11.