



New South Wales

# Transport Administration (Staff) Regulation 2022

under the

Transport Administration Act 1988

His Honour the Administrator, with the advice of the Executive Council, has made the following Regulation under the *Transport Administration Act 1988*.

DAVID ELLIOTT, MP  
Minister for Transport

## Explanatory note

The object of this Regulation is to remake, without substantive changes, the provisions of the *Transport Administration (Staff) Regulation 2012*, which is repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

This Regulation makes provision about—

- (a) the employment of the staff of the following transport corporations—
  - (i) Sydney Ferries,
  - (ii) Sydney Trains,
  - (iii) NSW Trains, and
- (b) the employment of persons in the Transport Service, including the employment of persons to enable the State Transit Authority to exercise its functions.

This Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely matters of a machinery nature and 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 2022

under the

Transport Administration Act 1988

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Transport Administration (Staff) Regulation 2022*.

#### 2 Commencement

This Regulation commences on 1 September 2022.

**Note—** This Regulation replaces the *Transport Administration (Staff) Regulation 2012* which is repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

#### 3 Definitions

The Dictionary in Schedule 1 defines words used in this Regulation.

**Note—** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

## **Part 2 Employment by transport corporations—the Act, ss 64, 64C and 64F**

### **Division 1 General**

#### **4 Transport corporation officers convicted of serious offences**

A transport corporation may take disciplinary proceedings against a transport corporation officer who is convicted of a serious criminal offence.

#### **5 Procedure in disciplinary proceedings**

- (1) If a transport corporation takes disciplinary proceedings against a transport corporation officer, the transport corporation must give the officer written notice 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 transport corporation officer may make representations to that person or body.

#### **6 Suspension pending disciplinary proceedings**

- (1) A transport corporation officer may, pending the taking or determination of disciplinary proceedings against the officer, be temporarily suspended from duty by—
  - (a) the transport corporation, or
  - (b) a transport corporation officer who is senior in position, rank or grade.
- (2) The transport corporation may end the suspension at any time.
- (3) A transport corporation may withhold the payment of salary to a transport corporation officer while the officer is suspended from duty under this section.

#### **7 Punishments in disciplinary proceedings**

- (1) A transport corporation may impose the following punishments in disciplinary proceedings against a transport corporation 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 a transport corporation officer, the transport corporation may allow the officer to resign.
- (3) This section does not limit other action that may be taken under another law by a transport corporation in relation to an officer in disciplinary proceedings.

#### **8 Disciplinary proceedings not required**

This Division does not require the taking of disciplinary proceedings for a transport corporation to dispense with the services of—

- (a) a transport corporation officer, or
- (b) another employee of the transport corporation.

## 9 Promotion reviews

- (1) A transport corporation officer may apply for a review of a reviewable appointment by a transport corporation if—
  - (a) the transport corporation officer was an unsuccessful applicant for the vacant position, and
  - (b) an appointment to the vacant position would be a promotion for the transport corporation officer.
- (2) A transport corporation officer must apply for a review of a reviewable appointment by a transport corporation within 5 days of the transport corporation notifying the appointment, as the case requires—
  - (a) to the unsuccessful applicant, or
  - (b) in a notice circulated among officers seeking promotion.
- (3) The only ground on which a transport corporation officer may apply for a review of a reviewable appointment by a transport corporation is denial of procedural fairness.
- (4) An appointment to a vacant position is a *reviewable appointment* if—
  - (a) the position is advertised, and
  - (b) the person appointed to the position is, immediately before the appointment, a transport corporation officer, and
  - (c) the appointment is to a position as—
    - (i) a Sydney Trains officer or NSW Trains officer with a maximum salary that is below the minimum salary for a position graded RC Grade 5 at the time of advertising the position, or
    - (ii) a Sydney Ferries officer with a maximum salary that is below the minimum salary for the position of senior officer, band A, at the time of advertising the position.

## Division 2 Sydney Trains and NSW Trains—additional provisions

### 10 Employment outside official duties

- (1) A transport corporation officer must not, except with the permission of the transport corporation, do the following outside the officer's position—
  - (a) hold a paid office,
  - (b) engage in paid employment,
  - (c) carry on a business,
  - (d) engage in the private practice of a profession.
- (2) The transport corporation may, by written notice given to the transport corporation officer, withdraw the permission at any time.
- (3) For this section, a transport corporation officer is taken to hold a paid office, or to engage in paid employment, even if the officer—
  - (a) does not accept payments to which the officer is entitled for the officer's services, or
  - (b) accepts only an honorarium or allowance for the officer's services.
- (4) A transport corporation officer who contravenes this section is taken to be guilty of misconduct for the purposes of disciplinary proceedings.
- (5) This section only applies to officers of the following transport corporations—
  - (a) Sydney Trains,

- (b) NSW Trains.

#### **11 Return of property on termination of employment**

- (1) A transport corporation officer, or another employee of a transport corporation, whose employment is terminated or suspended must, on the last day of the person's duty before the termination or suspension, return property belonging to the transport corporation that is in the person's possession at that time.
- (2) This section only applies to officers or other employees of the following transport corporations—
  - (a) Sydney Trains,
  - (b) NSW Trains.
- (3) In this section—  
**termination** means resignation, retirement, dismissal, retrenchment or other cessation of employment, and includes unauthorised absence from duty.

## **Part 3 Employment in Transport Service—the Act, s 68P**

### **Division 1 General**

#### **12 Transport Service employees convicted of serious offences**

If a Transport Service employee is convicted of a serious criminal offence, the Transport Secretary may—

- (a) take disciplinary action in relation to the employee, or
- (b) take remedial action in relation to the employee.

#### **13 Procedure in disciplinary proceedings**

- (1) If the Transport Secretary takes disciplinary proceedings against a Transport Service employee, the Transport Secretary must give the employee written notice 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 or dealing with the alleged behaviour, but the Transport Service employee may make representations to that person or body.

#### **14 Suspension pending disciplinary proceedings or determination of charges**

- (1) The Transport Secretary may suspend a Transport Service employee from duty pending—
  - (a) the taking or determination of disciplinary proceedings against the employee, or
  - (b) the determination by a court of a charge against the employee for a serious criminal offence.
- (2) The Transport Secretary may end the suspension at any time.
- (3) The Transport Secretary may withhold the payment of salary to a Transport Service employee while the employee is suspended from duty under this section.

#### **15 Determination of disciplinary proceedings**

The Transport Secretary may determine disciplinary proceedings taken against a Transport Service employee by—

- (a) taking disciplinary action in relation to the employee, or
- (b) taking remedial action in relation to the employee, or
- (c) taking no further action.

### **Division 2 State Transit Authority—additional provisions**

#### **16 Advertising of vacant positions**

- (1) The Transport Secretary must, unless the Transport Secretary decides otherwise, advertise a vacant STA officer's position before appointing a person to the position.
- (2) A vacant STA officer's position may be advertised within or outside the Transport Service, or both.
- (3) In deciding to appoint a person to a vacant STA officer's position that has been advertised, the Transport Secretary may only select a person who has duly applied for appointment to the position.
- (4) The Transport Secretary may do the following—

- (a) extend the time stipulated in an advertisement for lodging applications for a vacant STA officer's position,
  - (b) decline to appoint any of the applicants for a vacant STA officer's position that has been advertised,
  - (c) re-advertise a vacant STA officer's position.
- (5) Despite subsection (3), the Transport Secretary may appoint a person to a vacant STA officer's position as if it had not been advertised if—
- (a) there are no applicants for the position, or
  - (b) the Transport Secretary has declined to appoint any applicant to the position.

#### **17 Merit appointments**

- (1) For the purpose of determining the merit of persons eligible for appointment to a vacant STA officer's position, the Transport Secretary 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 eligible persons that are relevant to the performance of the duties of the position.
- (2) If a vacant STA officer's position has been advertised, the Transport Secretary must, subject to section 16(5), select from among the applicants eligible for appointment the applicant who, in the opinion of the Transport Secretary, has the greatest merit.
- (3) If a vacant STA officer's position has not been advertised, the Transport Secretary—
- (a) may appoint a 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 Transport Secretary, the greatest merit of the STA officers eligible for promotion, or
  - (c) may appoint an STA officer by way of transfer or regression.
- (4) This section applies to a vacant STA officer's position advertised within or outside the Transport Service, or both.

#### **18 Appointments from within or outside Transport Service**

- (1) The Transport Secretary may appoint to an STA officer's position—
- (a) a Transport Service employee, or
  - (b) a person who is not a Transport Service employee.
- (2) The Transport Secretary may arrange competitive examinations or take other measures for determining suitability for appointment to a vacant STA officer's position.

#### **19 Appointments on probation**

- (1) A person appointed to an STA officer's position must be first appointed on probation for a period of 3 months.
- (2) In a particular case, the Transport Secretary may make an appointment without probation.
- (3) The Transport Secretary may, during the period of probation, extend the period of probation, but the total period of probation must not exceed 6 months.
- (4) A period of leave, with or without pay, must not be included in calculating the total period of 6 months.



- (5) The Transport Secretary may, during or after the period of probation—
  - (a) confirm the STA officer’s appointment, or
  - (b) discharge the officer from the Transport Service.

**20 Promotion reviews and employment outside official duties**

- (1) Sections 9 and 10 apply to an STA officer in the same way as they apply to a transport corporation officer.
- (2) For that purpose—
  - (a) in sections 9 and 10—
    - (i) a reference to a transport corporation officer is taken to include a reference to an STA officer, and
    - (ii) a reference to a transport corporation is taken to include a reference to the Transport Secretary, and
  - (b) in section 9(4)(c), an appointment to a position is a *reviewable appointment* if the appointment is to a position as an STA officer with a maximum salary that is below the minimum salary for the position of senior officer, band A, at the time of advertising the position.

## **Part 4 Miscellaneous**

### **21 Savings**

An act, matter or thing that, immediately before the repeal of the *Transport Administration (Staff) Regulation 2012*, had effect under that Regulation is taken to have effect under this Regulation.

## Schedule 1 Dictionary

section 3

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

**disciplinary action** means the following—

- (a) a caution or reprimand,
- (b) a fine of an amount not exceeding \$100,
- (c) deferral of the payment of an increment,
- (d) reduction of salary or demotion to a lower position or grade,
- (e) suspension from duty without pay,
- (f) dismissal.

**NSW Trains officer** means an employee, other than a casual or temporary employee, of NSW Trains.

**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.

**remedial action** means the following—

- (a) counselling,
- (b) training and development,
- (c) monitoring conduct or performance,
- (d) implementing a performance improvement plan,
- (e) the issuing of a warning that—
  - (i) certain conduct is unacceptable, or
  - (ii) a Transport Service employee's performance is not satisfactory,
- (f) transferring a Transport Service employee to another position in the Transport Service that does not involve a reduction of salary or demotion to a lower position,
- (g) other action of a similar nature.

**salary** includes wages or other remuneration.

**serious criminal offence** means—

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

**STA officer** means a Transport Service employee, other than a casual or temporary employee, designated as an STA officer by the Transport Secretary.

**Sydney Ferries officer** means an employee, other than a casual or temporary employee, of Sydney Ferries.

**Sydney Trains officer** means an employee, other than a casual or temporary employee, of Sydney Trains.

**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 corporation** means—

- (a) Sydney Ferries, or

- (b) Sydney Trains, or
- (c) NSW Trains.

***transport corporation officer*** means—

- (a) for Sydney Ferries—a Sydney Ferries officer, or
- (b) for Sydney Trains—a Sydney Trains officer, or
- (c) for NSW Trains—a NSW Trains officer.

***Transport Service employee*** means a person employed in ongoing, term, temporary, casual or other employment, or on secondment, in the Transport Service of New South Wales.