

Transport Administration (General) Regulation 2013

[2013-489]



New South Wales

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The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
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New South Wales

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Transport Administration (General) Regulation 2013



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Transport Administration (General) Regulation 2013*.

2 Commencement

This Regulation commences on 1 September 2013.

Note—

This Regulation replaces the *Transport Administration (General) Regulation 2005* which is repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Chief Executive of NSW Trains means the Chief Executive of NSW Trains appointed by the Director-General under clause 34.

Chief Executive of Sydney Trains means the Chief Executive of Sydney Trains appointed by the Director-General under clause 12.

driver of a vehicle includes any person riding or drawing a vehicle or riding or leading an animal that is drawing a vehicle.

Executive Director of Transport Cleaning Services means the Executive Director of Transport Cleaning Services appointed by the Chief Executive of RailCorp under clause 54.

former Regulation means the *Transport Administration (General) Regulation 2005*.

Liverpool-Parramatta Transitway means the transitway service operating between Liverpool and Parramatta.

NSW Trains means the body corporate of that name constituted by the former

Regulation.

NSW Trains land means land vested in NSW Trains.

prescribed traffic control device has the same meaning as in Part 5.3 of the [Road Transport Act 2013](#).

RailCorp land means land vested in RailCorp.

relevant Authority means:

- (a) RailCorp, Sydney Trains or NSW Trains, in relation to RailCorp land, or
- (b) Sydney Trains, in relation to Sydney Trains land, or
- (c) NSW Trains, in relation to NSW Trains land, or
- (d) the STA, in relation to STA land, or
- (e) Sydney Ferries, in relation to Sydney Ferries land.

STA means the State Transit Authority.

STA land means land vested in the STA.

Sydney Ferries land means land vested in Sydney Ferries.

Sydney Trains means the body corporate of that name constituted by the former Regulation.

Sydney Trains land means land vested in Sydney Trains.

TfNSW land means land vested in TfNSW.

the Act means the [Transport Administration Act 1988](#).

traffic control device means a sign, signal, marking or other device that:

- (a) is in the form of, or is in similar form to, a prescribed traffic control device, and
- (b) is erected, displayed or marked on RailCorp, Sydney Ferries or STA land by order of the relevant Authority.

traffic control officer means:

- (a) a police officer, or
- (b) a person or a member of a class of persons appointed in writing for the purposes of this definition by the Director-General, or
- (c) a person or a member of a class of persons appointed in writing for the purposes

- of this definition by the Chief Executive of RailCorp, in relation to RailCorp land, or
- (d) a person or member of a class of persons appointed in writing by the chief executive of Sydney Trains, in relation to RailCorp land or Sydney Trains land, or
 - (e) a person or member of a class of persons appointed in writing by the chief executive of NSW Trains, in relation to RailCorp land or NSW Trains land, or
 - (f) a person or a member of a class of persons appointed in writing for the purposes of this definition by the Chief Executive of the STA, in relation to STA land, or
 - (g) a person or a member of a class of persons appointed in writing for the purposes of this definition by the Chief Executive of Sydney Ferries, in relation to Sydney Ferries land.

transitway service has the same meaning as it has in the [Passenger Transport Act 1990](#).

Transport Cleaning Services means the body corporate of that name constituted by the former Regulation.

vehicle includes a bicycle, but does not include any vehicle used on railway lines.

Western Sydney Buses means the corporation of that name that is taken to have been constituted as a public subsidiary corporation of the State Transit Authority as provided by clause 178 of Schedule 7 to the Act.

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

Part 2 Traffic control

4 Traffic control devices

- (1) A traffic control device has the same operation in respect of the land to which it applies as the equivalent prescribed traffic control device has in respect of the length of road or area to which it applies.
- (2) Despite subclause (1), a traffic control device displaying the words “receipt and delivery zone” has the same operation in respect of the land to which it applies as a prescribed traffic control device displaying the words “loading zone” has in respect of the length of road or area to which it applies.

5 Powers of traffic control officers and duties of drivers

- (1) The driver of a vehicle on TfNSW land, RailCorp land, NSW Trains land, Sydney Trains land, Sydney Ferries land or STA land must give to a traffic control officer such information regarding the standing or parking of the vehicle on the land as the officer requires.

Maximum penalty: 5 penalty units.

- (2) A traffic control officer may give one or more of the following directions to the driver of a vehicle standing or parking on TfNSW land, RailCorp land, NSW Trains land, Sydney Trains land, Sydney Ferries land or STA land:
- (a) to not stand or park the vehicle on the land or a part of the land,
 - (b) to remove the vehicle from the land or a part of the land,
 - (c) to move the vehicle to a particular position or so as to join a particular line of vehicles on the land or to stand or park the vehicle in a particular location,
 - (d) any other direction relating to the standing or parking of the vehicle on the land.
- (3) The driver of a vehicle to whom such a direction is given must not fail to comply with the direction.

Maximum penalty (subclause (3)): 5 penalty units.

6 Parking of vehicles only in parking areas

- (1) A person must not cause a vehicle to stand or be parked on TfNSW land, RailCorp land, NSW Trains land, Sydney Trains land, Sydney Ferries land or STA land:
- (a) on which there is no traffic control device erected, displayed or marked, or
 - (b) on which there is no other sign that, by order of the relevant Authority, is erected, displayed or marked and permits the standing or parking of vehicles.

Maximum penalty: 5 penalty units.

- (2) This clause does not prohibit:
- (a) the standing of a vehicle while it is actually engaged in taking up or setting down goods, or while any person is actually entering or alighting from it, or
 - (b) the standing or parking of a vehicle as directed or authorised by a traffic control officer.

7 Parking contrary to traffic control devices

- (1) A person must not, on TfNSW land, RailCorp land, NSW Trains land, Sydney Trains land, Sydney Ferries land or STA land, cause a vehicle to stand or be parked in contravention of the direction appearing on, or represented by, any traffic control device that is erected, displayed or marked on that land.

Maximum penalty: 5 penalty units.

- (2) This clause does not prohibit the standing or parking of a vehicle as directed or

authorised by a traffic control officer.

8 False representation

A person must not falsely represent:

- (a) that he or she or any other person is a traffic control officer exercising the powers of a traffic control officer under this Regulation, or
- (b) that a notice or sign is, by order of the relevant Authority, erected, displayed or marked on TfNSW land, RailCorp land, NSW Trains land, Sydney Trains land, Sydney Ferries land or STA land, or
- (c) that a direction relating to the standing or parking of a vehicle on TfNSW land, RailCorp land, NSW Trains land, Sydney Trains land, Sydney Ferries land or STA land has been given by a traffic control officer.

Maximum penalty: 2 penalty units.

9 Prescribed traffic control facilities

For the purposes of paragraph (b) (ii) of the definition of **traffic control facility** in section 45E (1) of the Act, the road transport legislation within the meaning of the [Road Transport Act 2013](#) is prescribed.

Part 3 Sydney Trains

10 Continuation of Sydney Trains

Sydney Trains is continued in existence by this Regulation.

11 Functions of Sydney Trains

- (1) Sydney Trains has the functions of RailCorp under sections 6, 7, 9, 11 and 11A of the Act.
- (2) Section 10 of the Act applies to and in respect of Sydney Trains in the same way as it applies to and in respect of RailCorp, but only so as to confer functions on Sydney Trains for the purpose of enabling it to exercise its functions under subclause (1).
- (3) The Director-General may give directions to Sydney Trains as to the types of railway passenger services to be operated by Sydney Trains, or that otherwise restrict the functions of Sydney Trains. Sydney Trains is to exercise its functions in accordance with any such directions.

Note—

Sydney Trains operates rail passenger services predominantly in the part of the metropolitan rail area bounded by Waterfall, Macarthur, Richmond, Emu Plains and Berowra. NSW Trains operates rail passenger services that commence or terminate in regional New South Wales. However, for operational reasons, Sydney Trains provides rolling stock and crew for some NSW Trains services and NSW Trains provides rolling

stock and crew for some Sydney Trains services.

- (4) Section 5 of the Act applies to and in respect of Sydney Trains, in the exercise of its functions, in the same way as it applies to and in respect of RailCorp.

12 Chief Executive of Sydney Trains

- (1) The Director-General may, with the approval of the Minister, appoint a person as the Chief Executive of Sydney Trains. That person is to be employed under Part 7A of the Act.
- (2) The affairs of Sydney Trains are to be managed and controlled by the Chief Executive of Sydney Trains in accordance with any directions of the Director-General.
- (3) Any act, matter or thing done in the name of, or on behalf of, Sydney Trains by the Chief Executive of Sydney Trains is taken to have been done by Sydney Trains.
- (4) Clause 3 of Schedule 2 to the Act applies to and in respect of Sydney Trains as if a reference in that clause to a Chief Executive included a reference to the Chief Executive of Sydney Trains.

13 Ministerial responsibility

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

14 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 Sydney Trains 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 Sydney Trains.
- (3) Schedule 5 to the Act applies to and in respect of Sydney Trains staff in the same way as it applies to and in respect of RailCorp staff.
- (4) Sydney Trains 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.

15 Supply of information to Minister

Section 17A of the Act applies to and in respect of Sydney Trains in the same way as it applies to and in respect of RailCorp.

16 Corporate plans

Section 17B of the Act applies to and in respect of Sydney Trains in the same way as it

applies to and in respect of RailCorp. However, Sydney Trains is not required to prepare or deliver a corporate plan for the financial year beginning on 1 July 2013.

17 Delegation of functions

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

18 Financial provisions

The provisions of Divisions 1, 4 and 5 of Part 8 of the Act apply to and in respect of Sydney Trains as if a reference in those provisions to RailCorp or to an Authority included a reference to Sydney Trains.

19 Miscellaneous provisions applying to rail authorities

Division 1A of Part 9 of the Act applies to and in respect of Sydney Trains as if a reference in that Division to a rail authority or to a State rail operator included a reference to Sydney Trains.

20 Seal

Section 109 of the Act applies to and in respect of Sydney Trains as if a reference in that section to an Authority included a reference to Sydney Trains and a reference to the Chief Executive of the Authority included a reference to the Chief Executive of Sydney Trains.

21 Contracts

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

22 Referral of disputes

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

23 Personal liability

Section 112 of the Act applies to and in respect of Sydney Trains as if a reference in that section to a transport authority included a reference to Sydney Trains and a reference to a member of a transport authority included a reference to the Chief Executive of Sydney Trains.

24 Presumption of validity

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

25 Recovery of charges

Section 115 of the Act applies to and in respect of Sydney Trains as if a reference in that section to a transport authority included a reference to Sydney Trains.

26 Liability of vehicle owner for parking offences

Section 116 of the Act applies to and in respect of Sydney Trains as if a reference in that section to RailCorp included a reference to Sydney Trains.

27 Parramatta Rail Link

Division 6 of Part 9 of the Act applies to and in respect of Sydney Trains as if a reference in that Division (other than in section 124 (1)) to a rail authority included a reference to Sydney Trains.

28 Powers relating to rail infrastructure facilities and land

- (1) The provisions of Schedule 6A to the Act (with the exception of the excluded clauses), and any regulations made under those provisions, apply to and in respect of Sydney Trains in the same way as they apply to and in respect of RailCorp.
- (2) The excluded clauses are clauses 2B and 2C of Schedule 6A.

29 Underground rail facilities

Schedule 6B to the Act applies to and in respect of Sydney Trains in the same way as it applies to and in respect of RailCorp.

30 Application of other Acts and instruments to Sydney Trains

- (1) The provisions of or made under any Act that apply to RailCorp apply to and in respect of Sydney Trains as if a reference in those provisions to RailCorp included a reference to Sydney Trains, except as otherwise provided by this clause.
- (2) Subclause (1) does not apply to provisions of or made under the following Acts:
 - (a) *Annual Reports (Statutory Bodies) Act 1984*,
 - (b) *Public Finance and Audit Act 1983*,
 - (c) *Transport Administration Act 1988*.
- (3) The provisions of or made under the *Public Authorities (Financial Arrangements) Act 1987* apply to and in respect of Sydney Trains as if Sydney Trains formed part of RailCorp and as though the exercise of functions by and operations of Sydney Trains were the exercise of functions by and operations of RailCorp.
- (4) Any pricing determination that applies to railway passenger services supplied by RailCorp under the name "CityRail" is taken to apply to and in respect of railway

passenger services operated by Sydney Trains that are specified by the Director-General, in a direction given under clause 11, to be services that are to be operated by Sydney Trains in accordance with the pricing determination.

- (5) In this clause, **pricing determination** means:
- (a) any declaration of a government monopoly service made under section 4 of the *Independent Pricing and Regulatory Tribunal Act 1992*, and
 - (b) any determination of the pricing for a government monopoly service made by the Independent Pricing and Regulatory Tribunal under section 11 of that Act and in force immediately before 1 July 2013.

31 Effect of transfer of assets, rights and liabilities

- (1) This clause applies to the transfer to or by Sydney Trains of any asset, right or liability under section 55C (5) of the Act, unless the instrument of transfer provides that this clause, or clause 9W of the *Transport Administration (General) Regulation 2005*, 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 transfer, whether or not those entitlements and obligations were actual or potential at the time the transfer 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.

Part 4 NSW Trains

32 Continuation of NSW Trains

NSW Trains is continued in existence by this Regulation.

33 Functions of NSW Trains

- (1) NSW Trains has the functions of RailCorp under sections 6, 9, 11 and 11A of the Act.
- (2) Section 10 of the Act applies to and in respect of NSW Trains in the same way as it applies to and in respect of RailCorp, but only so as to confer functions on NSW Trains for the purpose of enabling it to exercise its functions under subclause (1).
- (3) The Director-General may give directions to NSW Trains as to the types of railway passenger services to be operated by NSW Trains, or that otherwise restrict the functions of NSW Trains. NSW Trains is to exercise its functions in accordance with any such directions.

Note—

NSW Trains operates rail passenger services that commence or terminate in regional New South Wales. Sydney Trains operates rail passenger services predominantly in the part of the metropolitan rail area bounded by Waterfall, Macarthur, Richmond, Emu Plains and Berowra. However, for operational reasons, NSW Trains provides rolling stock and crew for some Sydney Trains services and Sydney Trains provides rolling stock and crew for some NSW Trains services.

- (4) Section 5 of the Act applies to and in respect of NSW Trains, in the exercise of its functions, in the same way as it applies to and in respect of RailCorp.

34 Chief Executive of NSW Trains

- (1) The Director-General may, with the approval of the Minister, appoint a person as the Chief Executive of NSW Trains. That person is to be employed under Part 7A of the Act.
- (2) The affairs of NSW Trains are to be managed and controlled by the Chief Executive of NSW Trains in accordance with any directions of the Director-General.
- (3) Any act, matter or thing done in the name of, or on behalf of, NSW Trains by the Chief Executive of NSW Trains is taken to have been done by NSW Trains.
- (4) Clause 3 of Schedule 2 to the Act applies to and in respect of NSW Trains as if a reference in that clause to a Chief Executive included a reference to the Chief Executive of NSW Trains.

35 Ministerial responsibility

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

36 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 NSW Trains 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 NSW Trains.
- (3) Schedule 5 to the Act applies to and in respect of NSW Trains staff in the same way as it applies to and in respect of RailCorp staff.
- (4) NSW Trains 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.

37 Supply of information to Minister

Section 17A of the Act applies to and in respect of NSW Trains in the same way as it applies to and in respect of RailCorp.

38 Corporate plans

Section 17B of the Act applies to and in respect of NSW Trains in the same way as it applies to and in respect of RailCorp. However, NSW Trains is not required to prepare or deliver a corporate plan for the financial year beginning on 1 July 2013.

39 Delegation of functions

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

40 Financial provisions

The provisions of Divisions 1, 4 and 5 of Part 8 of the Act apply to and in respect of NSW Trains as if a reference in those provisions to RailCorp or to an Authority included a reference to NSW Trains.

41 Miscellaneous provisions applying to rail authorities

Division 1A of Part 9 of the Act applies to and in respect of NSW Trains as if a reference in that Division to a rail authority or to a State rail operator included a reference to NSW Trains.

42 Seal

Section 109 of the Act applies to and in respect of NSW Trains as if a reference in that section to an Authority included a reference to NSW Trains and a reference to the Chief Executive of the Authority included a reference to the Chief Executive of NSW Trains.

43 Contracts

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

44 Referral of disputes

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

45 Personal liability

Section 112 of the Act applies to and in respect of NSW Trains as if a reference in that section to a transport authority included a reference to NSW Trains and a reference to a member of a transport authority included a reference to the Chief Executive of NSW Trains.

46 Presumption of validity

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

47 Recovery of charges

Section 115 of the Act applies to and in respect of NSW Trains as if a reference in that section to a transport authority included a reference to NSW Trains.

48 Liability of vehicle owner for parking offences

Section 116 of the Act applies to and in respect of NSW Trains as if a reference in that section to RailCorp included a reference to NSW Trains.

49 Powers relating to rail infrastructure facilities and land

- (1) The provisions of Schedule 6A to the Act (with the exception of the excluded clauses), and any regulations made under those provisions, apply to and in respect of NSW Trains in the same way as they apply to and in respect of RailCorp.
- (2) The excluded clauses are clauses 2A–2E, 13A and 14 of Schedule 6A.

Note—

The excluded clauses relate generally to the rail infrastructure facilities of RailCorp. These provisions are not relevant to NSW Trains as NSW Trains is an operator of railway passenger services only (that is, it does not have any rail infrastructure facilities).

50 Application of other Acts and instruments to NSW Trains

- (1) The provisions of or made under any Act that apply to RailCorp apply to and in respect of NSW Trains as if a reference in those provisions to RailCorp included a reference to NSW Trains, except as otherwise provided by this clause.
- (2) Subclause (1) does not apply to provisions of or made under the following Acts:
 - (a) *Annual Reports (Statutory Bodies) Act 1984*,
 - (b) *Public Finance and Audit Act 1983*,
 - (c) *Transport Administration Act 1988*.
- (3) The provisions of or made under the *Public Authorities (Financial Arrangements) Act 1987* apply to and in respect of NSW Trains as if NSW Trains formed part of RailCorp and as though the exercise of functions by and operations of NSW Trains were the exercise of functions by and operations of RailCorp.
- (4) Any pricing determination that applies to railway passenger services supplied by RailCorp under the name “CityRail” is taken to apply to and in respect of railway passenger services operated by NSW Trains that are specified by the Director-General, in a direction given under clause 33, to be services that are to be operated by NSW Trains in accordance with the pricing determination.
- (5) In this clause, **pricing determination** means:
 - (a) any declaration of a government monopoly service made under section 4 of the *Independent Pricing and Regulatory Tribunal Act 1992*, and
 - (b) any determination of the pricing for a government monopoly service made by the

Independent Pricing and Regulatory Tribunal under section 11 of that Act and in force immediately before 1 July 2013.

51 Effect of transfer of assets, rights and liabilities

- (1) This clause applies to the transfer to or by NSW Trains of any asset, right or liability under section 55C (5) of the Act, unless the instrument of transfer provides that this clause, or clause 9ZR of the *Transport Administration (General) Regulation 2005*, 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 transfer, whether or not those entitlements and obligations were actual or potential at the time the transfer 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.

Part 5 Transport Cleaning Services

52 Continuation of Transport Cleaning Services

Transport Cleaning Services is continued in existence by this Regulation.

53 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, car or bus parking areas, bus or transport interchange areas, 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).

54 Executive Director of Transport Cleaning Services

- (1) The Chief Executive of RailCorp, with the approval of the Minister, may appoint a person as the Executive Director of Transport Cleaning Services.
- (2) The employment of the Executive Director of Transport Cleaning Services is to be governed by a contract of employment between the Chief Executive of RailCorp (as employer) and the Executive Director of Transport Cleaning Services.
- (3) The affairs of Transport Cleaning Services are to be managed and controlled by the Executive Director of Transport Cleaning Services 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 of Transport Cleaning Services is taken to have been done by Transport Cleaning Services.

55 Ministerial responsibility

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

56 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) Schedule 5 to the Act applies to and in respect of Transport Cleaning Services staff in the same way as it applies to and in respect of RailCorp staff.
- (4) 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.

57 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.

58 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.

59 Financial provisions

The provisions of Divisions 1 and 4 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.

60 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 of Transport Cleaning Services.

61 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.

62 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.

63 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 of Transport Cleaning Services.

64 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.

65 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*,
 - (b) *Public Authorities (Financial Arrangements) Act 1987*,
 - (c) *Annual Reports (Statutory Bodies) Act 1984*.

66 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, or clause 21P of the *Transport Administration (General) Regulation 2005*, 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 transfer, whether or not those entitlements and obligations were actual or potential at the time the transfer 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.

Part 6 Western Sydney Buses

67 Continuation of Western Sydney Buses

Western Sydney Buses is continued in existence by this Regulation.

68 Functions of Western Sydney Buses

- (1) Western Sydney Buses has all the functions of the STA with respect to the operation of the Liverpool-Parramatta Transitway.

- (2) The provisions of section 24 of the Act apply to and in respect of Western Sydney Buses in the same way as they apply to and in respect of the STA, but only so as to confer functions on Western Sydney Buses for the purpose of enabling it to exercise its functions under subclause (1).

Note—

Section 55C (Public subsidiary corporations) of the Act provides that a public subsidiary corporation has such of the functions of the transport authority in respect of which it is constituted as are specified in the regulations or delegated to it under the Act. Western Sydney Buses is such a corporation.

69 Manager

- (1) The Chief Executive of the STA may appoint a person as the Manager of Western Sydney Buses. That person must be a person who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002*.
- (2) The affairs of Western Sydney Buses are to be managed and controlled by the Manager in accordance with the policies of the STA and the directions of the Chief Executive of the STA.
- (3) Any act, matter or thing done in the name of, or on behalf of, Western Sydney Buses by the Manager is taken to have been done by Western Sydney Buses.

70 Ministerial responsibility and delegation

- (1) The provisions of section 3B of the Act apply to and in respect of Western Sydney Buses in the same way as those provisions apply to and in respect of the STA.
- (2) In its application to and in respect of Western Sydney Buses, section 3B of the Act is to be read as if a reference in that section to the Chief Executive of the State Transit Authority included a reference to the Manager of Western Sydney Buses.

71 Financial provisions

- (1) The provisions of Divisions 2 and 4 of Part 8 of the Act apply to and in respect of Western Sydney Buses in the same way as they apply to and in respect of the STA, but not so as to authorise or require the establishment of any fund in addition to the State Transit Authority Fund.
- (2) For the purposes of the application of section 76 of the Act to Western Sydney Buses, a reference in that section to the Minister is taken to be a reference to the STA.

72 Sale, lease or other disposal of land

Section 100 of the Act applies in respect of Western Sydney Buses and its land.

73 Protection from liability

Section 112 of the Act applies to and in respect of Western Sydney Buses as if a reference

in that section to the Chief Executive of the State Transit Authority included a reference to the Manager of Western Sydney Buses.

74 Application of other provisions of Act to Western Sydney Buses

The following provisions of the Act apply to and in respect of Western Sydney Buses in the same way as they apply to and in respect of the STA:

- (a) section 30 (STA to supply information to Minister),
- (b) section 35 (Delegation of functions of STA),
- (c) section 115 (Recovery of charges etc by transport authority).

75 Application of other Acts to Western Sydney Buses

- (1) The provisions of or made under any Act (other than the *Transport Administration Act 1988*) apply to and in respect of Western Sydney Buses as if a reference in those provisions to the State Transit Authority included a reference to Western Sydney Buses, except as provided by subclause (2).
- (2) The provisions of or made under the following Acts apply to and in respect of Western Sydney Buses as if Western Sydney Buses formed part of the STA and as though the exercise of functions by and operations of Western Sydney Buses were the exercise of functions by and operations of the STA:
 - (a) *Public Finance and Audit Act 1983*,
 - (b) *Public Authorities (Financial Arrangements) Act 1987*,
 - (c) *Annual Reports (Statutory Bodies) Act 1984*.

76 Effect of transfer of assets, rights and liabilities

- (1) This clause applies to the transfer to or by Western Sydney Buses of any asset, right or liability under section 55C (5) of the Act, unless the instrument of transfer provides that this clause, or clause 21 of the *Transport Administration (General) Regulation 2005*, 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 transfer, whether or not those entitlements and obligations were actual or potential at the time the transfer 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.

Part 7 ARTC arrangements

77 Interpretation

(1) In this Part:

local government rate means a rate levied by a council under the *Local Government Act 1993*, but does not include a charge levied by a council on land.

temporary member of staff of ARTC means a member of staff of a rail authority who is temporarily placed with ARTC under Division 5 of Part 8A of the Act.

transferring rail authority means the rail authority from which a temporary member of staff of ARTC is temporarily placed with ARTC under Division 5 of Part 8A of the Act.

work injury damages has the same meaning as it has in section 88ZA of the Act.

- (2) Other words and expressions used in this Part have the same meanings as they have in Part 8A of the Act.

78 Exemptions from duty

Duty under the *Duties Act 1997* is not chargeable in respect of any of the following arrangements, or any variation of any such arrangement:

- (a) a lease, licence, agreement or other arrangement under section 88B of the Act,
- (b) a memorandum of understanding to enter into a lease, licence, agreement or other arrangement under section 88B of the Act,
- (c) an agreement or other arrangement under section 88C of the Act,
- (d) an agreement or other arrangement under section 88D of the Act or a memorandum of understanding to enter into any such agreement or other arrangement,
- (e) an agreement for the sale by a rail authority to ARTC of plant, machinery, equipment, stores or consumables,
- (f) an agreement under section 88U of the Act and any associated agreement between a rail authority and ARTC,
- (g) an agreement between New South Wales, the Commonwealth and ARTC relating to the leasing of, and other arrangements for, the NSW rail network,
- (h) any other agreement entered into by ARTC and a rail authority with each other, or by ARTC and a rail authority with New South Wales or the Commonwealth (or both of them), to give effect to an ARTC arrangement,
- (i) any other agreement entered into by a rail authority with New South Wales or the Commonwealth to give effect to an ARTC arrangement.

79 Exemptions from land tax and rates

- (1) This clause applies to land subject to an ARTC lease or licence (being land that is not otherwise exempt from land tax or local government rates) if:
 - (a) rail infrastructure facilities are installed in, on or over the land or it is vacant land,
or
 - (b) the land is used primarily for railway purposes.
- (2) To avoid doubt, this clause applies to land referred to in subclause (1) that is leased by ARTC to another person.
- (3) In this clause, **railway purposes** include:
 - (a) the operation and maintenance of the NSW rail network, and

(b) stations and platforms, and

(c) office buildings used in association with a purpose referred to in paragraph (a) or (b), and

(d) purposes ancillary to a purpose referred to in paragraph (a) or (b),

but do not include rolling stock maintenance facilities, freight centres or depots or related facilities.

(4) Land tax is not payable by ARTC in relation to land to which this clause applies.

(5) Local government rates are not payable in relation to land to which this clause applies.

80 Limitation on liability of ARTC for common law damages

(1) For the purposes of section 88ZA (2) of the Act, the provisions of the *Workers Compensation Act 1987* set out in subclause (3) (**the applied common law provisions**) apply both to work injury damages recoverable from ARTC, and to work injury damages recoverable from the transferring rail authority, by or in respect of a temporary member of staff of ARTC.

(2) The provisions so apply as if ARTC were an employer of the member of staff in addition to the transferring rail authority.

(3) The applied common law provisions are as follows:

(a) Divisions 1, 1A, 2 and 3 of Part 5,

(b) section 151Z.

(4) Sections 151A, 151C, 151D and 151Z of the *Workers Compensation Act 1987* apply to and in respect of ARTC as if it were an employer liable to pay compensation under that Act.

(5) Section 151I of the *Workers Compensation Act 1987* applies to work injury damages recoverable from ARTC as if the following subsection were inserted after section 151I (3):

(4) In awarding damages in respect of an injured or deceased worker, the court is to reduce the amount otherwise payable under this section by ARTC by the amount of any damages recovered or recoverable from the transferring rail authority.

81 ARTC to be endorsed on self-insurer licences

(1) For the purposes of section 88ZA (1) (d) and (e), (3) and (4) of the Act, section 211A

of the *Workers Compensation Act 1987* applies to ARTC as if it were a wholly owned subsidiary of any rail authority that has employees who are temporary members of staff of ARTC.

- (2) For that purpose, section 211A (1) of that Act is modified to require the WorkCover Authority to endorse the name of ARTC on a self-insurer licence granted to any such rail authority, if requested to do so by the rail authority and ARTC.
- (3) On endorsement on the self-insurer licence, ARTC has all the functions under that Act of a wholly owned subsidiary that is endorsed on the self-insurer licence of a rail authority, but only to the extent that they relate to temporary members of staff of ARTC.
- (4) Any such endorsement is taken to have effect on and from the first date on which employees of the rail authority became temporary members of staff of ARTC.
- (5) In this clause:

rail authority means RailCorp or Transport for NSW.

self-insurer licence means a licence in force under Division 5 of Part 7 of the *Workers Compensation Act 1987*.

82 Entitlements of former rail authority employees to recognition of past service

- (1) This clause applies to members of staff of ARTC who:
 - (a) became employees of ARTC on or after 1 June 2004 and not later than 30 days after the commencement of the operation of the first lease between ARTC and a rail authority under Part 8A of the Act, and
 - (b) were employed by a rail authority not more than 30 days before being so employed by ARTC, and
 - (c) have been declared by the rail authority or the chief executive of the rail authority to be surplus to the rail authority's requirements and to be eligible for the benefit of this clause.

Note—

The first lease under Part 8A of the Act between ARTC and a rail authority commenced on 5 September 2004.

- (2) Despite subclauses (3)–(5), a member of staff who elected to cash out his or her leave entitlements under clause 10F of the *Transport Administration (General) Regulation 2000* does not retain any rights to any such leave entitlements. However, previous service is to be taken into account for the purposes of an entitlement to long service leave in respect of future service.

- (3) Continuous service of a member of staff with one or more rail authorities is taken, for all purposes, as service with ARTC.
- (4) In particular, without limiting the operation of subclause (3), a member of staff retains any leave entitlements accrued in previous employment with one or more rail authorities.
- (5) A person's entitlement to any such leave is to be calculated:
 - (a) for such part of any period during which that leave accrued or was accruing as occurred before the day on which the person commenced employment with ARTC—at the rate of accrual for the time being applicable to the person before that day (as an employee of the rail authority), and
 - (b) for such part of that period as occurred after the day on which the person commenced employment with ARTC—at the rate of accrual for the time being applicable to the person after that day (as an employee of the ARTC).
- (6) In this clause:

leave entitlements means entitlements to annual leave, extended leave, long service leave, sick leave and public holidays.

Part 8 Penalty notices

83 Penalty notice offences

For the purposes of section 117 of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is declared to be a penalty notice offence, and
- (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.

84 Authorised officers: section 117

A traffic control officer (other than a police officer) is declared to be an authorised officer for the purposes of section 117 of the Act.

85 Removing or damaging a penalty notice

A person must not, without reasonable excuse, remove or deface, destroy or otherwise damage any notice left on or attached to a vehicle under section 117 (3) (b) of the Act.

Maximum penalty: 2 penalty units.

Part 9 Miscellaneous

86 Obstructing an officer

A person must not obstruct or hinder a traffic control officer in the exercise of any power conferred by this Regulation.

Maximum penalty: 4 penalty units.

87 Additional classes of persons to whom RMS may delegate functions: section 50

- (1) The following classes of persons are prescribed for the purposes of section 50 of the Act:
- (a) chairpersons of regional traffic committees,
 - (b) councils, councillors of councils and the staff of councils,
 - (c) persons employed in a public sector service under the *Public Sector Employment and Management Act 2002*,
 - (d) authorities of the Commonwealth, the members and staff of those authorities and the staff of Departments of the Commonwealth,
 - (e) persons with whom RMS has entered into a DVRS agreement.

(2) In this clause:

council has the same meaning as it has in the *Local Government Act 1993*.

councillor has the same meaning as it has in the *Local Government Act 1993*.

DVRS agreement means an agreement known as a Dealer Vehicle Registration Scheme agreement under which RMS authorises a person to perform functions relating to the registration of vehicles.

regional traffic committee means a committee established by RMS to provide advice on traffic and associated matters.

88 TfNSW to be State rail operator for certain purposes: section 89

For the purpose of the definition of **State rail operator** in section 89 of the Act, TfNSW is prescribed, but only in relation to section 91 (2) (f) of the Act.

89 Transport districts: section 108

For the purposes of section 108 of the Act, the boundaries of the transport districts are as follows:

- (a) the boundaries of the Metropolitan transport district are the boundaries of the area comprising the County of Cumberland (excluding any area within the local

government area of Wollongong City) and the Parish of Cowan in the County of Northumberland,

- (b) the boundaries of the Newcastle transport district are the boundaries of the area comprising the local government area of Newcastle City, the Parishes of Teralba and Kahibah, that part of the Parish of Wallarah in the local government area of Lake Macquarie City and the area of Kooragang Island,
- (c) the boundaries of the Wollongong transport district are the boundaries of the area comprising the local government area of Wollongong City.

90 Interpretation of references to SRA

The references to the State Rail Authority in Part 2 of the Table to clause 15 and in clauses 20A and 52 of *Sydney Regional Environmental Plan No 26—City West* are taken to include references to RailCorp.

91 Interpretation of references to Sydney Metro

The references to Sydney Metro in *State Environmental Planning Policy (Infrastructure) 2007* are to be construed as follows:

- (a) the reference to Sydney Metro in paragraph (a) of the definition of ***rail authority for an interim rail corridor*** in clause 78 is to be construed as a reference to the Department of Transport,
- (b) the reference to land owned, leased, managed or controlled by Sydney Metro in paragraph (a1) of the definition of ***rail authority for the rail corridor*** in clause 78 is to be construed as a reference to land owned, leased, managed or controlled by the Crown that was, immediately before 1 July 2013, owned, leased, managed or controlled by Sydney Metro,
- (c) the second reference to Sydney Metro in paragraph (a1) of the definition of ***rail authority for the rail corridor*** in clause 78 is to be construed as a reference to the Department of Transport,
- (d) the references to Sydney Metro in clauses 88A and 88C are to be construed as references to the Director-General of the Department of Transport.

92 Savings

- (1) Any act, matter or thing that, immediately before the repeal of the former Regulation, had effect under that Regulation is taken to have effect under this Regulation.

Note—

Among other things, the former Regulation declared light rail routes for the purposes of section 104N (2) of the Act. The repeal of that Regulation does not affect those declarations.

- (2) Without limiting subclause (1):

- (a) the person appointed under clause 9D of the former Regulation as the Chief Executive of Sydney Trains and holding office as such on the commencement of this clause is taken to have been appointed under clause 12 of this Regulation, and
- (b) the person appointed under clause 9ZA of the former Regulation as the Chief Executive of NSW Trains and holding office as such on the commencement of this clause is taken to have been appointed under clause 34 of this Regulation, and
- (c) the person appointed under clause 21D of the former Regulation as the Executive Director of Transport Cleaning Services and holding office as such on the commencement of this clause is taken to have been appointed under clause 54 of this Regulation, and
- (d) the person appointed under clause 13 of the former Regulation as the Manager of Western Sydney Buses and holding office as such on the commencement of this clause is taken to have been appointed under clause 69 of this Regulation.

Schedule 1 Penalty notice offences

(Clause 83)

Offences under this Regulation

Column 1	Column 2
Provision	Penalty
Clause 5 (1)	\$100
Clause 5 (3)	\$100
Clause 6 (1)	\$150
Clause 7 (1)	\$150
Clause 85	\$50