

Transport Administration (Staff) Regulation 2012

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New South Wales

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Provisions in force

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

Notes—

- **Does not include amendments by**
[Government Sector Employment Legislation Amendment Act 2016 No 2](#) (not commenced — to commence on 1.7.2017)

Authorisation

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Contents

Part 1 Preliminary	4
1 Name of Regulation	4
2 Commencement	4
3 Definitions	4
Part 2 STA employees	5
Division 1 Appointment of STA officers	5
4 Advertising of vacancies	5
5 Appointments from within or outside Transport Service	6
6 Merit appointments	6
7 Promotion reviews relating to STA officers.....	6
8 Appointment on probation.....	7
9 (Repealed)	7
Division 2 Conditions of employment	7
10 (Repealed)	7
11 Employment outside official duties.....	7
12 (Repealed)	8
Divisions 3, 4 (Repealed)	8
Part 3 (Repealed)	8

Part 4 RailCorp and Sydney Ferries staff	8
Division 1 Interpretation	8
19 Definitions	8
Division 2 Disciplinary proceedings	8
20 Punishments in disciplinary proceedings	8
21 Suspension of officer pending disciplinary proceedings	9
22 Transport corporation officers convicted of serious offences.....	9
23 Procedure in disciplinary hearings.....	9
Division 3 Promotion reviews	10
24 Promotion reviews relating to RailCorp officers	10
25 Promotion reviews relating to Sydney Ferries officers	10
Division 4 Other provisions relating to RailCorp staff	11
26 Employment outside official duties.....	11
27 Return of property on termination of employment	11
Part 5 Members of the Transport Service—disciplinary matters	12
28 Definitions	12
29 Suspension from duty	12
30 Disciplinary proceedings.....	13
31 Members of the Transport Service convicted of serious offences	13
Part 6 Miscellaneous	13
32A Groups of staff within Transport Service	13
32 Saving	13

Transport Administration (Staff) Regulation 2012



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Transport Administration (Staff) Regulation 2012*.

2 Commencement

This Regulation commences on 1 September 2012.

Note—

This Regulation replaces the *Transport Administration (Staff) Regulation 2005* which is repealed on 1 September 2012 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

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

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.

RailCorp officer means an employee of RailCorp other than a casual or temporary employee.

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.

salary includes wages or other remuneration.

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

STA employee means a member of the Transport Service designated as an STA employee by the Transport Secretary.

STA officer means an STA employee other than a casual or temporary employee.

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

transfer means the appointment of a person to a position with the same maximum salary as the maximum salary for the position held by the person immediately before the appointment.

Transport Secretary means the Secretary of the Department of Transport.

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

Part 2 STA employees

Division 1 Appointment of STA officers

4 Advertising of vacancies

- (1) Unless the Transport Secretary otherwise determines, vacancies in STA officers' positions must be advertised before they are filled.
- (2) Vacancies may be advertised either within the Transport Service or both within and outside the Transport Service.
- (3) In deciding to appoint a person to a vacant STA officer's position that has been advertised, the Transport Secretary may select only a person who has duly applied for appointment to the vacant position.
- (4) The Transport Secretary may do any one or more of the following:
 - (a) extend the time stipulated in an advertisement for lodging applications for a vacant position,
 - (b) decline to appoint any of the applicants for a vacant position that has been advertised,
 - (c) re-advertise a vacancy.
- (5) Despite subclause (3), if:
 - (a) there are no applicants for a vacant STA officer's position that has been advertised, or
 - (b) the Transport Secretary has declined to appoint any applicant to the position, the Transport Secretary may fill the position as if it had not been advertised.

5 Appointments from within or outside Transport Service

- (1) The Transport Secretary may appoint to any STA officer's position in the Transport Service:
 - (a) a person already engaged in the Transport Service, or
 - (b) a person not engaged in the Transport Service.
- (2) The Transport Secretary may arrange competitive examinations or take other measures for determining suitability for appointment to vacant STA officers' positions.

6 Merit appointments

- (1) This clause applies to appointments to fill any vacancy in an STA officer's position.
- (2) For the purpose of determining the merit of persons eligible for appointment to a position, the 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 those persons that are relevant to the performance of those duties.
- (3) If a vacant STA officer's position has been advertised, the Transport Secretary must, subject to clause 4 (5), select from among the applicants eligible for appointment the applicant who, in the opinion of the Transport Secretary, has the greatest merit.
- (4) If a vacant STA officer's position has not been advertised, the Transport Secretary:
 - (a) may appoint any person who is not an STA officer, or
 - (b) may appoint an STA officer by way of promotion, if the STA officer has, in the opinion of the 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.
- (5) This clause applies to positions advertised within the Transport Service as well as to positions advertised both within and outside the Transport Service.

7 Promotion reviews relating to STA officers

- (1) For the purposes of this clause, an appointment to a position is a **reviewable appointment** if:
 - (a) the appointment is to an STA officer's position with a maximum salary that is below the minimum salary for the position of senior officer, band A, and

- (b) the vacancy in the position was advertised.
- (2) An STA officer may apply for a review by the Transport Secretary of a reviewable appointment.
- (3) An application for such a review may be made only by an STA officer:
 - (a) who was an unsuccessful applicant for the vacant position, and
 - (b) for whom the vacant position would be a promotion.
- (4) An application for such a review must be made within 5 days of the Transport Secretary notifying the Transport Secretary's decision on the vacancy to the unsuccessful applicant or in a notice circulated among STA officers seeking promotion, as the case requires.
- (5) Despite subclause (1), the appointment to any position of a person who is not an STA officer is not a reviewable appointment for the purposes of this clause.
- (6) The only ground on which an STA officer may, under this clause, seek a review is denial of procedural fairness.

8 Appointment on probation

- (1) Every person appointed to the Transport Service as an STA officer must, in the first instance, be appointed on probation for a period of 3 months.
- (2) In a particular case, the 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 may not exceed 6 months.
- (4) A period of leave (with or without pay) must not be included in calculating any such total period of 6 months.
- (5) The Transport Secretary may, during or after the period of probation, confirm the STA officer's appointment or discharge the officer from the Transport Service.

9 (Repealed)

Division 2 Conditions of employment

10 (Repealed)

11 Employment outside official duties

- (1) An STA officer must not, except with the prior written permission of the Transport Secretary:

- (a) hold any paid office or engage in any paid employment, or
 - (b) carry on any business or engage in the private practice of any profession, outside the duties of the officer's position.
- (2) The Transport Secretary may, by notice in writing given to the STA officer concerned, withdraw any such permission at any time.
- (3) For the purposes of this clause, an STA officer is taken to hold a paid office or engage in paid employment even though:
- (a) the officer does not accept payments to which the officer is entitled for the officer's services, or
 - (b) the officer accepts only an honorarium or allowance for the officer's services.
- (4) An STA officer who contravenes this clause is taken to be guilty of misconduct for the purposes of disciplinary proceedings.

12 (Repealed)

Divisions 3, 4

13-17 (Repealed)

Part 3

18 (Repealed)

Part 4 RailCorp and Sydney Ferries staff

Division 1 Interpretation

19 Definitions

In this Part:

transport corporation means RailCorp or Sydney Ferries.

transport corporation officer means:

- (a) in the case of RailCorp—a RailCorp officer, or
- (b) in the case of Sydney Ferries—a Sydney Ferries officer.

Division 2 Disciplinary proceedings

20 Punishments in disciplinary proceedings

- (1) A transport corporation may impose any one or more of 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 Division is not to be construed as requiring the taking of disciplinary proceedings in order that a transport corporation may dispense with the services of a transport corporation officer or other employee of the transport corporation.
 - (4) Nothing in this clause limits any other action that may be taken under any other law by a transport corporation in respect of an officer in disciplinary proceedings.

21 Suspension of officer pending disciplinary proceedings

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

22 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.

23 Procedure in disciplinary hearings

- (1) A transport corporation officer who is subject to disciplinary proceedings is entitled to be notified in writing by the transport corporation 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 the subject of the proceedings

may make representations to that person or body.

Division 3 Promotion reviews

24 Promotion reviews relating to RailCorp officers

- (1) For the purposes of this clause, an appointment to a position is a **reviewable appointment** if:
 - (a) the appointment is to a RailCorp officer's position with a maximum salary that is below the minimum salary for a position graded RailCorp Grade 5 at the time of advertising the position, and
 - (b) the vacancy in the position was advertised.
- (2) A RailCorp officer may apply for a review by RailCorp of a reviewable appointment.
- (3) An application for such a review may be made only by a RailCorp officer:
 - (a) who was an unsuccessful applicant for the vacant position, and
 - (b) for whom the vacant position would be a promotion.
- (4) An application for such a review must be made within 5 days of RailCorp notifying its decision on the vacancy to the unsuccessful applicant or in a notice circulated among officers seeking promotion, as the case requires.
- (5) Despite subclause (1), the appointment to any position of a person who is not a RailCorp officer is not a reviewable appointment for the purposes of this clause.
- (6) The only ground on which a RailCorp officer may, under this clause, seek a review is denial of procedural fairness.

25 Promotion reviews relating to Sydney Ferries officers

- (1) For the purposes of this clause, an appointment to a position is a **reviewable appointment** if:
 - (a) the appointment is to a Sydney Ferries officer's position with a maximum salary that is below the minimum salary for the position of senior officer, band A, and
 - (b) the vacancy in the position was advertised.
- (2) A Sydney Ferries officer may apply for a review by Sydney Ferries of a reviewable appointment.
- (3) An application for such a review may be made only by a Sydney Ferries officer:
 - (a) who was an unsuccessful applicant for the vacant position, and

- (b) for whom the vacant position would be a promotion.
- (4) An application for such a review must be made within 5 days of Sydney Ferries notifying its decision on the vacancy to the unsuccessful applicant or in a notice circulated among officers seeking promotion, as the case requires.
- (5) Despite subclause (1), the appointment to any position of a person who is not a Sydney Ferries officer is not a reviewable appointment for the purposes of this clause.
- (6) The only ground on which a Sydney Ferries officer may, under this clause, seek a review is denial of procedural fairness.

Division 4 Other provisions relating to RailCorp staff

26 Employment outside official duties

- (1) A RailCorp officer must not, except with the permission of RailCorp:
 - (a) hold any paid office or engage in any paid employment, or
 - (b) carry on any business or engage in the private practice of any profession, outside the duties of the officer's position.
- (2) RailCorp may by notice in writing given to the RailCorp officer concerned, withdraw any such permission at any time.
- (3) For the purposes of this clause, a RailCorp officer is taken to hold a paid office or engage in paid employment even though:
 - (a) the officer does not accept payments to which the officer is entitled for the officer's services, or
 - (b) the officer accepts only an honorarium or allowance for the officer's services.
- (4) A RailCorp officer who contravenes this clause is taken to be guilty of misconduct for the purposes of disciplinary proceedings.

27 Return of property on termination of employment

- (1) A RailCorp officer or other employee of RailCorp whose employment is terminated or suspended must, on the last day of the person's duty before the termination or suspension, return any property belonging to RailCorp that is in the person's possession at that time.
- (2) In this clause, **termination** means resignation, retirement, dismissal, retrenchment or other cessation of employment, and includes unauthorised absence from duty.

Part 5 Members of the Transport Service—disciplinary matters

28 Definitions

In this Part:

disciplinary action, in relation to a member of the Transport Service, means any one or more of the following:

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

remedial action, in relation to a member of the Transport Service, means any one or more of the following:

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

29 Suspension from duty

- (1) The Transport Secretary may suspend a member of the Transport Service from duty pending:
 - (a) the institution or determination of any disciplinary proceedings against the member, or
 - (b) the determination by a court of any charge against the member for a serious criminal offence.

- (2) The Transport Secretary may remove a suspension at any time.
- (3) The Transport Secretary may withhold the payment of salary to a member of the Transport Service while the member is suspended from duty under this clause.

30 Disciplinary proceedings

- (1) A member of the Transport Service who is subject to any disciplinary proceedings is entitled to be notified in writing by the Transport Secretary 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 member of the Transport Service who is the subject of the proceedings may make representations to that person or body.
- (3) The Transport Secretary may determine any disciplinary proceedings that have been instituted against a member of the Transport Service by:
 - (a) taking disciplinary action with respect to the member, or
 - (b) taking remedial action with respect to the member, or
 - (c) taking no further action.

31 Members of the Transport Service convicted of serious offences

If a member of the Transport Service is convicted of a serious criminal offence, the Transport Secretary may:

- (a) take disciplinary action with respect to the member, or
- (b) take remedial action with respect to the member.

Part 6 Miscellaneous

32A Groups of staff within Transport Service

The Transport Secretary may create groups (however described) of staff of the Transport Service and designate members of the Transport Service to any such group.

32 Saving

- (1) Any act, matter or thing that, immediately before the repeal of the *Transport Administration (Staff) Regulation 2005*, had effect under that Regulation is taken to have effect under this Regulation.
- (2) Without limiting subclause (1), if an appeal to a Transport Appeal Board under the *Transport Administration (Staff) Regulation 2005* was pending immediately before the repeal of that Regulation, the appeal may continue to be heard and disposed of and the decision on the appeal is to be given effect to.