

# Transport Administration (Staff) Regulation 2005

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New South Wales

## Status Information

### Currency of version

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### Provisions in force

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

### Notes—

- **Repeal**

The Regulation was repealed by sec 10 (2) of the [Subordinate Legislation Act 1989 No 146](#) with effect from 1.9.2012.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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# Transport Administration (Staff) Regulation 2005



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Transport Administration (Staff) Regulation 2005*.

### 2 Commencement

This Regulation commences on 1 September 2005.

**Note—**

This Regulation replaces the *Transport Administration (Staff) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.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.

**disciplinary appeal** means an appeal under clause 32 or 43.

**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.

**promotion appeal** means an appeal under clause 22 (5), 41 or 42.

**RailCorp officer** includes an employee of RailCorp, but does not include 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.

**RTA** means the Roads and Traffic Authority.

**RTA officer** means an officer or employee of the RTA.

**salary** includes wages or other remuneration.

**STA** means the State Transit Authority.

**STA officer** includes an employee of the STA, but does not include a casual or temporary employee.

**Sydney Ferries officer** includes an employee of Sydney Ferries, but does not include 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 Appeal Board** means a Transport Appeal Board constituted under the [Transport Appeal Boards Act 1980](#).

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

## **Part 2**

### **4-19 (Repealed)**

## **Part 3 STA staff**

### **Division 1 Appointment of STA officers**

#### **19 Advertising of vacancies**

- (1) Unless the STA otherwise determines, vacancies in STA officers' positions must be advertised before they are filled.
- (2) Vacancies may be advertised either within the service of the STA or both within and outside the service of the STA.
- (3) In deciding to appoint a person to a vacant STA officer's position that has been advertised, the STA may select only a person who has duly applied for appointment to the vacant position.
- (4) The STA 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 position that has been advertised, or

(b) the STA has declined to appoint any applicant to the position,

the STA may fill the position as if it had not been advertised.

## **20 Appointments from within or outside service of STA**

(1) The STA may appoint to any STA officer's position in the service of the STA:

(a) a person already engaged in that service, or

(b) a person not engaged in that service.

(2) The STA may arrange competitive examinations or take other measures for determining suitability for appointment to vacant STA officers' positions.

## **21 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 STA 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 STA must, subject to clause 19 (5), select from among the applicants eligible for appointment the applicant who, in the opinion of the STA, has the greatest merit.

(4) If a vacant STA officer's position has not been advertised, the STA:

(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 STA, 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 service of the STA as well as to positions advertised both within and outside the service of the STA.

## **22 Promotion appeals and reviews**

- (1) For the purposes of this clause, an appointment to a position is **subject to appeal** 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 or, if not advertised, the appointment was made by promotion.
- (2) An STA officer may apply for a review by the STA of the appointment of an STA officer to a position that is subject to appeal.
- (3) An application for such a review may be made only:
  - (a) in the case of a vacancy that is advertised—by an STA officer who was an unsuccessful applicant for the vacant position, or
  - (b) in the case of a vacancy that is not advertised—by an STA officer who was seeking promotion to the vacant position but who was not selected.
- (4) An application for such a review must be made within 5 days of the STA notifying its decision on the vacancy to the unsuccessful applicant or in a notice circulated among STA officers seeking promotion, as the case requires.
- (5) An STA officer entitled to apply for such a review may appeal to a Transport Appeal Board against the appointment concerned, but only if:
  - (a) the officer applied for the review and the application was not successful, or
  - (b) the officer applied for the review and the review was not completed within 15 days after the application was made.
- (6) Despite subclause (1), the decision to appoint to any position a person who is not an STA officer is not subject to review under this clause or to appeal to a Transport Appeal Board.
- (7) The only ground on which an STA officer may, under this clause, seek a review or appeal to a Transport Appeal Board is that the merit of the officer is greater than that of the STA officer selected.

## **23 Appointment on probation**

- (1) Every person appointed to the service of the STA 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 STA may make an appointment without probation.
- (3) The STA 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 STA may, during or after the period of probation, confirm the STA officer's appointment or discharge the officer from the service of the STA.
- (6) A decision to discharge an STA officer is not subject to appeal to a Transport Appeal Board.

## **24 Provisional appointments**

- (1) The STA may make provisional appointments of STA officers by way of promotion, transfer or regression.
- (2) An STA officer provisionally appointed to a position may act in that position until the appointment is confirmed.
- (3) The provisional appointment of an STA officer to a position that is subject to appeal (within the meaning of clause 22) must not be confirmed:
  - (a) until the period for lodging an appeal has expired, and
  - (b) if an appeal is lodged within that period—until the appeal has been determined or withdrawn.

## **Division 2 Conditions of employment**

### **25 Sick leave**

- (1) Except as otherwise provided by any industrial agreement to which the STA is a party, STA officers and other employees of the STA are entitled to receive and accrue the same sick leave entitlements as persons employed in the Public Service of New South Wales under the *Public Sector Employment and Management Act 2002* and the regulations made under that Act.
- (2) This clause does not apply to any class of casual or temporary employees determined by the STA.

### **26 Employment outside official duties**

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

### **27 Retirement of officers on medical grounds**

If an STA officer becomes, as the result of the onset of a specified infirmity of body or mind, unable to carry out the inherent requirements of the officer's duties, the STA may cause the officer to be retired.

## **Division 3 Disciplinary proceedings against STA officers**

### **28 Punishments in disciplinary proceedings**

- (1) The STA may impose any one or more of the following punishments in disciplinary proceedings against an STA 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 an STA officer, the STA may allow the officer to resign.
- (3) The STA may deduct a fine imposed on an STA officer from the officer's salary.
- (4) This Division must not be construed as requiring the taking of disciplinary proceedings in order that the STA may dispense with the services of an STA officer or other employee of the STA.

### **29 Suspension of STA officer pending disciplinary proceedings**

- (1) An STA officer may be temporarily suspended from duty:
  - (a) by the STA, or

(b) by any other STA officer who is senior in position, rank or grade,  
pending the institution or determination of disciplinary proceedings against the officer.

(2) The STA may at any time terminate any such suspension.

(3) The STA may withhold the payment of salary to an STA officer suspended from duty.

### **30 STA officers convicted of serious criminal offences**

(1) The STA may take disciplinary proceedings against an STA officer who is convicted of a serious criminal offence.

(2) For the purposes of this clause, **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.

### **31 Procedure in disciplinary proceedings**

(1) An STA officer who is subject to disciplinary proceedings is entitled to be notified in writing by the STA of the charge and of the particulars of the charge.

(2) A formal hearing is not required to be held before the person or body investigating the matter the subject of any such charge, but the STA officer charged may make representations to that person or body.

### **32 Disciplinary appeals to Transport Appeal Board**

An STA officer may appeal to a Transport Appeal Board against:

(a) a decision of the STA to impose a punishment referred to in clause 28 (1) (b)-(e) in disciplinary proceedings against the officer, or

(b) a decision to suspend the officer temporarily under clause 29.

## **Division 4 Miscellaneous**

### **33 Appeals to Transport Appeal Board—general**

An appeal does not lie to a Transport Appeal Board against any decision of the STA or an STA officer or other employee of the STA unless a right to make the appeal is expressly conferred by this Part.

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

(1) An STA officer or other employee of the STA must, within 7 days of the termination or suspension of the person's employment, return any property belonging to the STA that is in the person's possession at the time of that termination or suspension.

- (2) In this clause, **termination** means resignation, retirement, dismissal, retrenchment or other cessation of employment, and includes unauthorised absence from duty.

## Part 4 RTA staff

### 35 Temporary suspension

- (1) An RTA officer may be temporarily suspended from duty by the RTA pending:
- (a) the institution or determination by the RTA of disciplinary action against the officer, or
  - (b) the determination by a court of any charge against the officer for a serious criminal offence.
- (2) The RTA may remove a suspension at any time.
- (3) If:
- (a) disciplinary action is instituted by the RTA against an RTA officer, or
  - (b) an RTA officer is charged with having committed a serious criminal offence,
- any salary payable to the officer while the officer is suspended from duty is (if the Chief Executive of the RTA so directs) to be withheld.
- (4) Salary so withheld may (if the Chief Executive so directs) be subsequently paid to the RTA officer whatever the result of the disciplinary action or charge.
- (5) In this clause:
- disciplinary action** includes:
- (a) disciplinary interviews or inquiries in connection with the conduct of an officer of the RTA, and
  - (b) disciplinary charges against an officer of the RTA, whether made orally or in writing.

**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.

## Part 5 RailCorp and Sydney Ferries staff

### Division 1 Interpretation

#### 36 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**

### **37 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 must not 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.

### **38 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 suspended from duty.

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

- (1) A transport corporation may take disciplinary proceedings against a transport corporation officer who is convicted of a serious criminal offence.
- (2) For the purposes of this clause, **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.

### **40 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 Appeals to Transport Appeal Boards**

### **41 Promotion appeals by RailCorp officers**

- (1) For the purposes of this clause, an appointment to a position is **subject to appeal** if:
  - (a) the appointment is to a RailCorp officer's position with a maximum salary that is below the minimum salary for the position of senior officer, class 1, and
  - (b) the vacancy in the position was advertised.
- (2) A RailCorp officer may appeal to a Transport Appeal Board against the appointment of a RailCorp officer to a position that is subject to appeal.
- (3) An appeal may be lodged only by a RailCorp officer who was an unsuccessful applicant for the vacant position.
- (4) Despite subclause (1), a decision to appoint:
  - (a) a RailCorp officer to a position that was not advertised, or
  - (b) a person who is not a RailCorp officer to any position,is not subject to appeal to a Transport Appeal Board.
- (5) The only ground on which a RailCorp officer may, under this clause, appeal to a Transport Appeal Board is that the merit of the officer is greater than that of the officer selected.

## **42 Promotion appeals and reviews**

- (1) For the purposes of this clause, an appointment to a position is ***subject to appeal*** 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 or, if not advertised, the appointment was made by promotion.
- (2) A Sydney Ferries officer may apply for a review by Sydney Ferries of the appointment of a Sydney Ferries officer to a position that is subject to appeal.
- (3) An application for such a review may be made only:
  - (a) in the case of a vacancy that is advertised—by a Sydney Ferries officer who was an unsuccessful applicant for the vacant position, or
  - (b) in the case of a vacancy that is not advertised—by a Sydney Ferries officer who was seeking promotion to the vacant position but who was not selected.
- (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) A Sydney Ferries officer entitled to apply for such a review may appeal to a Transport Appeal Board against the appointment concerned, but only if:
  - (a) the officer applied for the review and the application was not successful, or
  - (b) the officer applied for the review and the review was not completed within 15 days after the application was made.
- (6) Despite subclause (1), the decision to appoint to any position a person who is not a Sydney Ferries officer is not subject to review under this clause or to appeal to a Transport Appeal Board.
- (7) The only ground on which a Sydney Ferries officer may, under this clause, seek a review or appeal to a Transport Appeal Board is that the merit of the officer is greater than that of the Sydney Ferries officer selected.

## **43 Disciplinary appeals**

A transport corporation officer may appeal to a Transport Appeal Board against:

- (a) a decision of the transport corporation to impose a punishment referred to in clause 37 (1) (b)-(e), or
- (b) a decision to suspend the officer temporarily under clause 38.

#### **44 No other appeals to Transport Appeal Boards**

An appeal does not lie to a Transport Appeal Board against any decision of a transport corporation or a transport corporation officer or other employee of a transport corporation unless a right to make the appeal is expressly conferred by this Division.

### **Part 5A Members of the Transport Service—disciplinary matters**

#### **44A 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.

***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.

***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.

#### **44B Suspension from duty**

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

#### **44C 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 Director-General 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 Director-General 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.

#### **44D Members of the Transport Service convicted of serious offences**

If a member of the Transport Service is convicted of a serious criminal offence, the Director-General may:

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

### **Part 6 Miscellaneous**

#### **45 Saving**

Any act, matter or thing that, immediately before the repeal of the *Transport Administration (Staff) Regulation 2000*, had effect under that regulation is taken to have effect under this Regulation.