

# Ambulance Services Regulation 2005

[2005-467]



New South Wales

## Status Information

### Currency of version

Repealed version for 25 January 2008 to 31 August 2011 (accessed 27 December 2024 at 14:50)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Note**  
The [Ambulance Services Regulation 2005](#) made under the [Ambulance Services Act 1990](#) is on and from 17.3.2006 taken to be a Regulation made under the [Health Services Act 1997](#). See clause 71 of Schedule 7 to the [Health Services Act 1997 No 154](#).
- **Repeal**  
The Regulation was repealed by sec 10 (2) of the [Subordinate Legislation Act 1989 No 146](#) with effect from 1.9.2011.

### 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](#).

File last modified 1 September 2011

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# Ambulance Services Regulation 2005



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Ambulance Services Regulation 2005*.

### 2 Commencement

This Regulation commences on 1 September 2005.

#### Note—

This Regulation replaces the *Ambulance Services Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.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

**employee** means a person appointed and employed by the Ambulance Service under section 13 of the Act.

**supervisor** means a person under whose control or supervision an employee is placed.

**the Act** means the *Ambulance Services Act 1990*.

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

## Part 2 Employees

### 4 Lawful instructions to be obeyed

(1) An employee must obey promptly a lawful instruction that is:

- (a) consistent with such protocols and procedures as may be issued by the Ambulance Service from time to time, and
- (b) given to the employee by the employee's supervisor.

(2) An employee may appeal in writing to the Ambulance Service against an instruction

given to the employee. The appeal must be made through the supervisor who gave the instruction. However, the employee must, pending the determination of the appeal, comply with subclause (1) in relation to the instruction.

## **5 Uniform when on duty**

An employee must, when performing his or her duties, wear the uniform (if any) that the Ambulance Service determines from time to time to be the uniform for the class of employee to which the employee belongs.

## **6 Uniform outside hours of duty**

An employee must not wear a uniform issued by the Ambulance Service except when on duty or when travelling to or from duty or with the permission of the Ambulance Service.

## **7 Absence from duty**

- (1) An employee must not absent himself or herself from duty without the permission of the Ambulance Service or a member of staff of the Ambulance Service who is superior to the employee.
- (2) An employee who is absent from duty without leave must, as soon as practicable, furnish the employee's supervisor with an explanation of the reason for the employee's absence together with:
  - (a) if the absence exceeds 2 working days (or such shorter period as the Ambulance Service may determine in a particular case) and is due to illness, a certificate signed by a medical practitioner certifying that the employee is, because of that illness, unfit to perform the employee's duties, or
  - (b) if the absence is due to a pressing necessity requiring the employee's absence from duties, such evidence (if any) relating to the necessity as the Ambulance Service directs, either generally or in any particular case or class of cases.
- (3) Subclause (2) is subject to any award, or industrial agreement or enterprise agreement, that applies to the employee as an employee of the Ambulance Service.

## **8 Other employment**

- (1) An employee must not, except with the written permission of the Ambulance Service, engage in any employment (whether or not for remuneration) otherwise than in connection with his or her employment by the Ambulance Service.
- (2) If an employee is the holder of any office or is engaged in any employment otherwise than in connection with his or her employment by the Ambulance Service, the employee must at once notify the Ambulance Service of that fact.
- (3) The Ambulance Service may require that employee to resign that office or abstain

from engaging in that employment.

- (4) Permission given for the purposes of subclause (1) may be withdrawn by the Ambulance Service at any time. The withdrawal must be in writing given or sent to the employee.

#### **9 Entitlements as witness in official capacity**

- (1) An employee who, in his or her official capacity, is subpoenaed or called as a witness must pay any money received by the employee as a witness to the Ambulance Service.
- (2) However, the employee is entitled to be paid in full by the Ambulance Service for any time spent as a witness and, in addition, to be paid such travelling and out-of-pocket expenses as the Ambulance Service may determine.

#### **10 Entitlements as witness in private capacity**

- (1) An employee who, in his or her private capacity, is subpoenaed or called as a witness by the Crown (whether in right of a State or of the Commonwealth):
  - (a) must be granted special leave of absence with pay for the period during which the employee is necessarily absent from duty, and
  - (b) must pay to the Ambulance Service any money paid to the employee as a witness (other than money paid to the employee on account of travelling and out-of-pocket expenses).
- (2) An employee who, in his or her private capacity, is subpoenaed or called as a witness, but not by the Crown (whether in right of a State or of the Commonwealth):
  - (a) is entitled to be granted leave of absence for the period during which the employee is necessarily absent from duty, and
  - (b) may retain any money paid to the employee as a witness.

#### **11 Medical examination**

- (1) The Ambulance Service may direct that an employee undergo medical examination for the purpose of ascertaining the employee's fitness to perform his or her duties. An employee given such a direction must submit himself or herself to examination by a medical practitioner approved by the Ambulance Service.
- (2) The Ambulance Service may direct an employee to undergo such medical examination as the Ambulance Service considers necessary if there is reason to believe that the health of the employee:
  - (a) may mean that the employee is a danger to other employees or to the public, or

(b) is likely to be seriously affected by the employee remaining on duty (or, if the employee is absent from duty, by the employee's resumption of duty).

- (3) If the Ambulance Service has given a direction to an employee under subclause (2) and has made it clear to the employee that the direction is given under that subclause, the employee (if on duty) must cease duty immediately and (in any case) must not resume duty until the completion of the medical examination.

## **12 Payment of increment**

- (1) The payment of any increment to an employee is subject to the Ambulance Service being satisfied that the conduct of the employee and the manner in which the employee discharges his or her duties warrant that payment.
- (2) This clause is subject to any award, or industrial agreement or enterprise agreement, that applies to the employee as an employee of the Ambulance Service.

## **Part 3 Management of conduct and performance**

### **Division 1 Preliminary**

#### **13 Part applies to employees (except Chief Executive Officer)**

This Part applies to employees of the Ambulance Service but (unless otherwise expressly provided) does not apply to the Chief Executive Officer of that Service.

#### **14 Objects of Part**

The objects of this Part are as follows:

- (a) to protect the health and safety of the public by providing mechanisms to ensure that employees of the Ambulance Service are fit to perform their duties,
- (b) to ensure that the public interest is protected,
- (c) to maintain appropriate standards of conduct and work-related performance in the Ambulance Service,
- (d) to protect and enhance the integrity and reputation of the Ambulance Service.

#### **15 Definitions**

- (1) In this Part:

***ambulance officer*** means an employee of the Ambulance Service who is directly involved in the provision or delivery of clinical or medical services to members of the public.

***disciplinary action***, in relation to an employee of the Ambulance Service, means any

one or more of the following:

- (a) dismissal from the Ambulance Service,
- (b) directing the employee to resign, or to be allowed to resign, from the Ambulance Service within a specified time,
- (c) if the employee is on probation—annulment of the employee’s appointment,
- (d) except in the case of a senior executive officer—reduction of the employee’s classification or position,
- (e) a caution or reprimand.

**internal disclosure** means a disclosure made by an employee of the Ambulance Service regarding the alleged misconduct of another employee of the Ambulance Service.

**misconduct** includes, but is not limited to, any of the following:

- (a) a contravention (whether by act or omission) of any provision of the Act or this Regulation,
- (b) unsatisfactory professional conduct,
- (c) performance of duties in such a manner as to justify the taking of disciplinary action,
- (d) taking any detrimental action (within the meaning of the [Protected Disclosures Act 1994](#)) against a person that is substantially in reprisal for the person making a protected disclosure within the meaning of that Act,
- (e) taking any action against another employee that is substantially in reprisal for an internal disclosure made by that employee.

**procedural guidelines** means the guidelines in force from time to time under clause 16.

**remedial action**, in relation to an employee of the Ambulance Service, means any one or more of the following:

- (a) counselling,
- (b) training and development,
- (c) monitoring the employee’s conduct or performance,
- (d) implementing a performance improvement plan,
- (e) the issuing of a warning to the employee that certain conduct is unacceptable or



that the employee's performance is not satisfactory,

- (f) transferring the employee to another position in the Ambulance Service that does not involve a reduction of the employee's classification or position,
- (g) any other action of a similar nature.

**senior executive officer** means an employee of the Ambulance Service who is employed under a fixed term contract, the conditions of which are fixed by the Health Administration Corporation.

**serious offence** means an offence (whether or not committed in New South Wales) which, if committed in New South Wales, would be punishable by imprisonment for 12 months or more (whether or not in addition to a fine) in New South Wales.

**traffic offence** means any of the following offences:

- (a) an offence under section 25A of the [Road Transport \(Driver Licensing\) Act 1998](#) (relating to driving while disqualified or unlicensed),
- (b) an offence under section 19 (2) of the [Road Transport \(General\) Act 1999](#) (Authorised officer may require production of driver licence and name and address from driver or rider),
- (c) an offence under any of the following sections of the [Road Transport \(Safety and Traffic Management\) Act 1999](#):
  - (i) section 9 (Presence of prescribed concentration of alcohol in person's breath or blood),
  - (ii) section 12 (Use or attempted use of a vehicle under the influence of alcohol or any other drug),
  - (iii) section 42 (Negligent, furious or reckless driving),
  - (iv) section 43 (Menacing driving),
  - (v) section 70 (Duty to stop and give assistance where person killed or injured in road accident).

**unsatisfactory professional conduct**, in relation to an ambulance officer, includes any of the following:

- (a) any conduct that demonstrates that the knowledge, skill or judgment possessed, or care exercised, by the ambulance officer in the provision or delivery of clinical or medical services to members of the public is significantly below the standard reasonably expected of an ambulance officer of an equivalent level of training or experience,

- (b) the ambulance officer's failure without reasonable excuse to comply with a direction by the Ambulance Service to provide information with respect to a complaint under this Part against the ambulance officer,
  - (c) any other improper or unethical conduct relating to the ambulance officer.
- (2) In this Part, a reference to an allegation that an employee may have engaged in misconduct includes a reference to the Chief Executive Officer being made aware, or becoming aware, by any means that the employee may have engaged in misconduct.
- (3) For the purposes of this Part, the subject-matter of an allegation of misconduct may relate to an incident or conduct that happened:
- (a) while the employee concerned was not on duty, or
  - (b) before the employee was appointed to his or her position.

## **Division 2 Dealing with misconduct**

### **16 Issuing of procedural guidelines**

- (1) The Ambulance Service may, from time to time, issue guidelines for the purposes of:
- (a) dealing with allegations of misconduct as a disciplinary matter, and
  - (b) dealing with employees of the Ambulance Service who suffer from an impairment including habitual drunkenness or addiction to a deleterious drug, and
  - (c) dealing with unsatisfactory professional conduct, and
  - (d) the taking of disciplinary action with respect to employees under this Part.
- (2) The Ambulance Service may from time to time amend, revoke or replace the procedural guidelines.
- (3) The procedural guidelines as in force from time to time must be made publicly available in such manner as the Ambulance Service thinks appropriate.
- (4) In the event of any inconsistency between a provision contained in the procedural guidelines and these Regulations (including the objects of this Part), the latter is to prevail.

### **17 Requirements relating to procedural guidelines**

- (1) The procedural guidelines must be consistent with the rules for procedural fairness.
- (2) Without limiting subclause (1), the procedural guidelines are to ensure that:
- (a) the employee to whom an allegation of misconduct relates is advised in writing of the alleged misconduct and that the allegation may lead to disciplinary action

being taken with respect to that employee, and

- (b) the employee is given an opportunity to respond to the allegation, and
- (c) during any interview or inquiry that may be held in relation to the allegation, the employee may be represented by a solicitor, barrister or agent.

(3) A formal hearing involving the calling and cross-examination of witnesses is not to be held in relation to an allegation of misconduct and the taking of disciplinary action with respect to an employee.

(4) However, subclause (3) does not prevent the Chief Executive Officer from:

- (a) conducting such investigations into an allegation of misconduct as the Chief Executive Officer considers necessary, or
- (b) conducting interviews with the employee to whom the allegation relates or with any other person in connection with the matter concerned, or
- (c) taking signed statements from the employee or any such person.

#### **18 Dealing with allegations of misconduct**

(1) If an allegation is made to the Chief Executive Officer that an employee of the Ambulance Service may have engaged in any misconduct, the Chief Executive Officer may:

- (a) decide to deal with the allegation as a disciplinary matter in accordance with the procedural guidelines, or
- (b) decide that it is appropriate to take remedial action with respect to the employee.

(2) After dealing with an allegation of misconduct as a disciplinary matter in accordance with the procedural guidelines, the Chief Executive Officer may, if the Chief Executive Officer is of the opinion that the employee has engaged in any misconduct, decide to take disciplinary action with respect to the employee.

(3) Before any disciplinary action is taken with respect to an employee under this clause, the employee must be given an opportunity to make a submission in relation to the disciplinary action that the Chief Executive Officer is considering taking.

(4) Even though the Chief Executive Officer decides to deal with an allegation of misconduct as a disciplinary matter in accordance with the procedural guidelines, the Chief Executive Officer may, at any stage of the process:

- (a) decide to take remedial action with respect to the employee concerned, or
- (b) decide to dismiss the allegation, or decide that no further action is to be taken in relation to the matter, or both.

- (5) A decision under this clause by the Chief Executive Officer to take remedial action with respect to an employee does not, if it appears to the Chief Executive Officer that the employee may have engaged in any misconduct while the remedial action is being taken, prevent the Chief Executive Officer from dealing with the alleged misconduct as a disciplinary matter under this clause.

### **Division 3 Dealing with criminal conduct**

#### **19 Offences to be reported**

- (1) An employee of the Ambulance Service who is charged with having committed, or is convicted of, a serious offence must immediately report that fact in writing to the Ambulance Service.
- (2) An employee of the Ambulance Service who is required to drive a motor vehicle as part of his or her duties and who is charged with having committed, or is convicted of, a traffic offence must immediately report that fact in writing to the Ambulance Service.
- (3) The supervisor of an employee of the Ambulance Service who has reason to believe that the employee has been charged with having committed, or has been convicted of, a serious offence or traffic offence but has not reported that fact in accordance with subclause (1) or (2) must immediately report that fact to the Ambulance Service.

#### **20 Driving disqualification to be reported**

An employee of the Ambulance Service who is required to drive a motor vehicle as part of his or her duties and who is disqualified from holding a driver licence or whose licence is cancelled or suspended must immediately report the disqualification, cancellation or suspension to the Ambulance Service.

#### **21 Disciplinary action may be taken if employee is convicted of serious offence or traffic offence**

- (1) If an employee of the Ambulance Service is convicted of a serious offence, the Chief Executive Officer may:
  - (a) decide to take disciplinary action with respect to the employee, or
  - (b) decide to take remedial action with respect to the employee.
- (2) If an employee of the Ambulance Service who is required to drive a motor vehicle as part of his or her duties is convicted of a traffic offence, the Chief Executive Officer may:
  - (a) decide to take disciplinary action with respect to the employee, or
  - (b) decide to take remedial action with respect to the employee.

- (3) Before any disciplinary action is taken with respect to an employee under this clause, the employee must be given an opportunity to make a submission in relation to the disciplinary action that the Chief Executive Officer is considering taking.
- (4) A reference in subclause (1) or (2) to the conviction of an employee for a serious offence or a traffic offence includes a reference to the employee having been found guilty by a court of such an offence but where no conviction is recorded.

## **Division 4 Dealing with unsatisfactory performance**

### **22 Dealing with unsatisfactory performance**

- (1) If the Chief Executive Officer is of the opinion that an employee of the Ambulance Service is not performing the employee's duties in a satisfactory manner, the Chief Executive Officer may decide to take remedial action with respect to the employee.

- (2) If:

- (a) remedial action is taken with respect to an employee, and
- (b) the Chief Executive Officer is, after the employee has been given a reasonable opportunity in which to improve his or her performance, of the opinion that the employee's performance is still unsatisfactory,

the Chief Executive Officer may notify the employee in writing that the employee's performance is still unsatisfactory and that the employee's performance may lead to disciplinary action being taken with respect to the employee. The employee must be given an opportunity to respond to the Chief Executive Officer's opinion about the employee's performance.

- (3) The Chief Executive Officer may, after considering any response by the employee, decide to take disciplinary action with respect to the employee.
- (4) Before any disciplinary action is taken with respect to an employee under this clause, the employee must be given an opportunity to make a submission in relation to the disciplinary action that the Chief Executive Officer is considering taking.

## **Division 5 Miscellaneous provisions**

### **23 Suspension of officers from duty pending decision in relation to misconduct or criminal conviction**

- (1) If:

- (a) an allegation that an employee has engaged in misconduct is being dealt with as a disciplinary matter in accordance with the procedural guidelines, or
- (b) an employee is charged with having committed a serious offence,

the Chief Executive Officer may suspend the employee from duty until the allegation of misconduct or the criminal charge has been dealt with.

- (2) The Chief Executive Officer may direct that salary payable to a person as an employee is to be withheld while the person is suspended from duty under this clause.
- (3) A direction under subclause (2) may only be given if the withholding of salary in the circumstances is consistent with any guidelines issued by the Premier in relation to the withholding of pay for suspended employees.
- (4) If:
  - (a) it is decided to take disciplinary action with respect to the person for the misconduct, or
  - (b) the person is convicted of the offence concerned,the salary withheld under subclause (2) is forfeited to the State unless the Chief Executive Officer otherwise directs or that salary was due to the person in respect of a period before the suspension was imposed.
- (5) If the Chief Executive Officer has suspended an employee from duty under this clause, the Chief Executive Officer may at any time remove the suspension.

#### **24 Implementation of decisions under this Part**

A decision of the Chief Executive Officer to take disciplinary action or remedial action under this Part with respect to an employee may be carried into effect at any time.

#### **25 Appointment after reduction of employee's classification or position**

Any appointment required as the result of the taking of disciplinary action comprising reduction of an employee's classification or position is to be made by the Chief Executive Officer.

#### **26 Officers retiring or resigning before disciplinary action is taken**

- (1) An allegation that an employee has engaged in misconduct may be dealt with under this Part, and disciplinary action may be taken with respect to the employee, even though the employee has retired or resigned.
- (2) The taking of disciplinary action with respect to the former employee does not affect the former employee's retirement or resignation or the benefits, rights and liabilities arising from the retirement or resignation.
- (3) Nothing in this clause affects any power under this Regulation to refuse to accept the resignation of an employee.

**Parts 4, 5**

**27-59 (Repealed)**

**Schedule 1 (Repealed)**