



New South Wales

Transport Administration (General) Regulation 2018

under the

Transport Administration Act 1988

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, and on the recommendation of the Minister for Transport and Infrastructure and with the approval of the Treasurer, has made the following Regulation under the *Transport Administration Act 1988*.

ANDREW CONSTANCE, MP
Minister for Transport and Infrastructure

Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the provisions of the *Transport Administration (General) Regulation 2013*, which would otherwise be repealed on 1 September 2018 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) traffic control on land that is vested in Transport for NSW, RailCorp, Residual Transport Corporation, Sydney Trains, NSW Trains, Sydney Ferries, Sydney Metro or the State Transit Authority,
- (b) leases, licences and other arrangements relating to the Australian Rail Track Corporation Ltd and matters relating to its staff,
- (c) penalty notices for certain offences.

This Regulation is made under the *Transport Administration Act 1988*, including sections 3I, 45E, 50, 88ZA, 88ZC, 91, 94, 104, 104N, 104T, 108, 117 and 119 (the general regulation-making power) and clauses 2, 161 and 178 of Schedule 7.

This Regulation deals with matters referred to in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters that are of a machinery nature or are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Transport Administration (General) Regulation 2018*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Transport Administration (General) Regulation 2013*, which would otherwise be repealed on 1 September 2018 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Authority land means NSW Trains land, RailCorp land, RTC land, STA land, Sydney Ferries land, Sydney Metro land, Sydney Trains land or TfNSW land.

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

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) NSW Trains, in relation to NSW Trains land, or
- (b) RailCorp, in relation to RailCorp land, or
- (c) RTC, in relation to RTC land, or
- (d) the STA, in relation to STA land, or
- (e) Sydney Ferries, in relation to Sydney Ferries land, or
- (f) Sydney Metro, in relation to Sydney Metro land, or
- (g) Sydney Trains, in relation to Sydney Trains land, or
- (h) TfNSW, in relation to TfNSW land.

RTC land means land vested in RTC.

STA means the State Transit Authority.

STA land means land vested in the STA.

Sydney Ferries land means land vested in Sydney Ferries.

Sydney Metro land means land vested in Sydney Metro.

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 Authority 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 Transport Secretary, 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 for the purposes of this definition by the Chief Executive of Sydney Trains, in relation to Sydney Trains land, or
- (e) a person or member of a class of persons appointed in writing for the purposes of this definition by the Chief Executive of NSW Trains, in relation to 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, or
- (h) 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 Metro, in relation to Sydney Metro land.

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

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

- (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 Authority 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 Authority 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 Authority land on which:
 - (a) there is no traffic control device erected, displayed or marked, or
 - (b) 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 Authority 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 Authority land, or
- (c) that a direction relating to the standing or parking of a vehicle on Authority 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 ARTC arrangements

10 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.

11 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.

12 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.

13 Limitation on liability of ARTC for common law damages

- (1) For the purposes of section 88ZA (2) of the Act, the following provisions of the *Workers Compensation Act 1987* (**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:
- (a) Divisions 1, 1A, 2 and 3 of Part 5,
 - (b) section 151Z.
- (2) The applied common law provisions apply as if ARTC were an employer of the member of staff in addition to the transferring rail authority.
- (3) 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.
- (4) 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.

14 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 TfNSW.

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

15 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 4 Miscellaneous

16 Authorised officers

A traffic control officer (other than a police officer) is declared to be an authorised officer for the purposes of section 117 (9) (b) of the Act.

17 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.

18 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.

19 Additional class of persons to whom TfNSW may delegate functions

For the purposes of the definition of *authorised person* in section 3I of the Act, the class of persons consisting of persons holding the office of Point to Point Transport Commissioner under the *Point to Point Transport (Taxis and Hire Vehicles) Act 2016*, and persons acting in that office, is prescribed as a class.

20 Additional classes of persons to whom RMS may delegate functions

(1) The following classes of persons are prescribed for the purposes of section 50 (3) (d) of the Act:

- (a) chairpersons of committees established by RMS to provide advice on traffic and associated matters,
- (b) councils, councillors of councils and the staff of councils,
- (c) persons employed in the government sector within the meaning of the *Government Sector Employment Act 2013*,
- (d) authorities of the Commonwealth, the members and staff of those authorities and the staff of government departments of the Commonwealth,
- (e) persons with whom RMS has entered into a registration scheme agreement.

(2) In this clause:

council and *councillor* have the same meanings as they have in the *Local Government Act 1993*.

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

21 Transport districts

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 City of Wollongong) 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 City of Newcastle, the Parishes of Teralba and Kahibah, that part of the Parish of Wallarah in the local government area of City of Lake Macquarie 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 City of Wollongong.

22 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, Sydney Trains, NSW Trains and TfNSW.

23 Reference to RailCorp

A reference to RailCorp in Schedule 1 to the *Water Savings Order 2005* includes a reference to NSW Trains and Sydney Trains.

24 Repeal and savings

- (1) The *Transport Administration (General) Regulation 2013* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Transport Administration (General) Regulation 2013*, had effect under that Regulation is taken to have effect under this Regulation.
- (3) The repeal of the *Transport Administration (General) Regulation 2013* does not affect the route of the light rail systems declared in clauses 82A and 82B of that Regulation.
- (4) The repeal of the *Transport Administration (General) Regulation 2013* does not affect the operation of clause 93 of that Regulation. Accordingly, the Minister may continue, by notice in writing, to confirm the transfer of assets, rights and liabilities by operation of that clause.

Schedule 1 Penalty notice offences

For the purposes of section 117 of the Act:

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

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 17	\$50