



# State Owned Corporations Regulation 2003

under the

State Owned Corporations Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *State Owned Corporations Act 1989*.

BOB CARR, M.P.,

Premier

## Explanatory note

The object of this Regulation is to make provision with respect to the employment of officers of Rail Corporation New South Wales, including:

- (a) enabling promotion appeals and disciplinary appeals to be made by officers to Transport Appeal Boards, and
- (b) providing for disciplinary matters concerning officers, including conferring power to suspend officers subject to disciplinary proceedings.

This Regulation is made under the *State Owned Corporations Act 1989*, including sections 20M and 38 (the general regulation-making power).

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## State Owned Corporations Regulation 2003

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State Owned Corporations Act 1989

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *State Owned Corporations Regulation 2003*.

#### 2 Commencement

This Regulation commences on 1 January 2004.

#### 3 Definitions

(1) In this Regulation:

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

***Transport Appeal Board*** means a Transport Appeal Board constituted under the *Transport Appeal Boards Act 1980*.

(2) Words and expressions used in this Regulation have the same meanings as they have in the *Transport Administration Act 1988*.

## **2003 No 956**

Clause 4 State Owned Corporations Regulation 2003

Part 2 Disciplinary proceedings

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### **Part 2 Disciplinary proceedings**

#### **4 Punishments in disciplinary proceedings**

- (1) RailCorp may impose any one or more of the following punishments in disciplinary proceedings against a RailCorp 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 RailCorp officer, RailCorp may allow the officer to resign.
- (3) This Part must not be construed as requiring the taking of disciplinary proceedings in order that RailCorp may dispense with the services of a RailCorp officer or other employee of RailCorp.
- (4) Nothing in this clause limits any other action that may be taken under any other law by RailCorp in respect of an officer in disciplinary proceedings.

#### **5 Suspension of officer pending disciplinary proceedings**

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

#### **6 RailCorp officers convicted of serious offences**

- (1) RailCorp may take disciplinary proceedings against a RailCorp officer who is convicted of a serious criminal offence.

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- (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.

**7 Procedure in disciplinary proceedings**

- (1) A RailCorp officer who is subject to disciplinary proceedings is entitled to be notified in writing by RailCorp 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 RailCorp officer the subject of the proceedings may make representations to that person or body.

## 2003 No 956

Clause 8 State Owned Corporations Regulation 2003

Part 3 Appeals to Transport Appeal Boards

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### Part 3 Appeals to Transport Appeal Boards

#### 8 Promotion appeals

- (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) The *Transport Appeal Boards Act 1980* applies to an appeal under this clause in the same way that it applies to a promotion appeal under the *Transport Administration (Staff) Regulation 2000*.
- (5) 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.
- (6) 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.

#### 9 Disciplinary appeals

- (1) A RailCorp officer may appeal to a Transport Appeal Board against:
  - (a) a decision of RailCorp to impose a punishment referred to in clause 4 (1) (b)–(e), or
  - (b) a decision to suspend the officer temporarily under clause 5.
- (2) The *Transport Appeal Boards Act 1980* applies to an appeal under this clause in the same way that it applies to a disciplinary appeal under the *Transport Administration (Staff) Regulation 2000*.

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**10 No other appeals to Transport Appeal Boards**

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