

Passed by both Houses



New South Wales

Transport Administration Amendment (RMS Dissolution) Bill 2019

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2019



New South Wales

Transport Administration Amendment (RMS Dissolution) Bill 2019

Act No _____, 2019

An Act to amend the *Transport Administration Act 1988* to dissolve Roads and Maritime Services and to transfer its assets, rights, liabilities and functions to Transport for NSW; to make consequential amendments to that Act and other legislation; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Transport Administration Amendment (RMS Dissolution) Act 2019*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Transport Administration Act 1988 No 109

- [1] **Section 3 Definitions**
Omit “RMS,” from the definition of *public transport agency* in section 3 (1).
- [2] **Section 3 (1)**
Omit the definition of *Roads and Maritime Services* (or *RMS*).
- [3] **Section 3B Ministerial responsibility and delegation**
Omit section 3B (1) (b).
- [4] **Section 3G Directions by TfNSW to public transport agencies**
Omit section 3G (1) (b).
- [5] **Section 3H Review by relevant safety regulator of directions relating to transport safety matters**
Omit “Roads and Maritime Services” wherever occurring in the definition of *relevant safety regulator* in section 3H (1).
Insert instead “the Chief Investigator, or other independent professional person, approved by the Minister as the relevant safety regulator for the purposes of this section”.
- [6] **Sections 38N (2), 105, 106 (1), 106A (1), (3) and (4) (definition of “eligible motor vehicle”) and 119 (1A) and clause 13C (1) (a) and (4) of Schedule 6A**
Omit “RMS” wherever occurring. Insert instead “TfNSW”.
- [7] **Part 6 Roads and Maritime Services**
Omit “RMS” and “RMS’s” wherever occurring (other than in Division 1A).
Insert instead “TfNSW” and “TfNSW’s”, respectively.
- [8] **Part 6, Division 1A Constitution and management of Roads and Maritime Services**
Omit the Division.
- [9] **Section 50 Delegation**
Omit the section.
- [10] **Part 6**
Convert Part 6 (other than Division 1A and section 50) to Part 2A of Schedule 1 (with the following headings); rename sections in the Part as clauses and renumber them commencing with clause 8A; and rename and renumber any cross-references accordingly—

Part 2A Roads and maritime functions

Division 1 Interpretation

Division 2 Roads and maritime functions

Division 3 Directions and recommendations to public authorities

[11] Section 55A Definition of “transport authority”

Omit section 55A (c).

[12] Section 65 Definitions

Omit paragraph (c) of the definition of *transport authority*.

[13] Section 68C Employment in the Transport Service

Omit section 68C (1) (c).

[14] Section 68C (1), note

Omit “TfNSW, the State Transit Authority and RMS”.

Insert instead “TfNSW and the State Transit Authority”.

[15] Section 68Q Miscellaneous provisions relating to the Transport Service

Omit “RMS,” wherever occurring in section 68Q (5) and (6).

[16] Section 68Q (10) (c)

Omit the paragraph.

[17] Part 8, Division 2A Financial provisions relating to Transport for NSW

Omit the Division.

[18] Part 8, Division 3, heading

Omit “Roads and Maritime Services”. Insert instead “Transport for NSW”.

[19] Section 77

Omit the section. Insert instead—

77 TfNSW Fund

There is established in the Special Deposits Account a fund called the Transport for NSW Fund (the *TfNSW Fund*).

[20] Sections 78–80C (other than section 78 (1) (a) (ii) and (iii))

Omit “RMS” wherever occurring. Insert instead “TfNSW”.

[21] Section 78 Payments into TfNSW Fund

Omit section 78 (1) (a) (ii) and (iii). Insert instead—

(ii) appropriated by Parliament for the purposes of TfNSW,

[22] Section 81A Definition

Omit paragraph (b) of the definition of *Authority*.

- [23] **Section 94 Transfers of assets, rights and liabilities**
Omit “RMS,” from section 94 (6).
- [24] **Section 99B Closure of level-crossings, bridges and other structures**
Omit “RMS” from section 99B (3) (b).
Insert instead “TfNSW (unless TfNSW is the rail infrastructure owner)”.
- [25] **Part 9, Division 3, heading**
Omit “RMS”. Insert instead “TfNSW”.
- [26] **Section 107 Definition of “transport authority”**
Omit section 107 (1) (c).
- [27] **Section 109 Seals of Authorities**
Omit paragraph (b) of the definition of *Authority* in section 109 (2).
- [28] **Section 112 Personal liability of certain persons**
Omit “, Sydney Metro and RMS” from paragraph (a) of the definition of *member of a transport authority* in section 112 (2).
Insert instead “and Sydney Metro”.
- [29] **Schedule 1 Functions of Transport for NSW**
Omit paragraph (d) of the definition of *transport authority* in clause 4A (4).
- [30] **Schedule 1, clause 8A (as inserted and amended by this Schedule)**
Insert after clause 8A (2) (formerly section 45E (2))—
(3) This Part does not limit the operation of the other provisions of this Schedule.
- [31] **Schedule 1, clause 8H (as inserted and amended by this Schedule)**
Omit clause 8H (1) (b) and (c) (formerly section 53 (1) (b) and (c)).
- [32] **Schedule 1, clause 9A**
Insert after clause 9—
9A Power to appoint agents and act as agent
TfNSW may appoint agents and act as agent for other persons.
- [33] **Schedule 2 Provisions relating to Chief Executives**
Omit “, 47 (2)” from the source reference.
- [34] **Schedule 2, clause 1**
Omit paragraph (b) of the definition of *Chief Executive*.
- [35] **Schedule 7 Savings, transitional and other provisions**
Insert at the end of the Schedule, with appropriate Part and clause numbering—

Part Provisions consequent on dissolution of RMS

Dissolution of RMS

- (1) Roads and Maritime Services (*RMS*) is dissolved.
- (2) The assets, rights and liabilities of RMS are, on its dissolution, transferred to Transport for NSW.
- (3) Schedule 4 applies to the transfer of the assets, rights and liabilities of RMS by the operation of this clause and so applies as if this clause were an order to which that Schedule applies when this clause takes effect.
- (4) Any act, matter or thing done or omitted to be done before the dissolution of RMS by, to or in respect of RMS is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of Transport for NSW.
- (5) A reference in any Act (other than this Act), in any instrument made under any Act or in any document of any kind to RMS is to be construed as a reference to Transport for NSW.
- (6) A reference in any Act (other than this Act), in any instrument made under any Act or in any document of any kind to the Chief Executive of RMS is to be construed as a reference to Transport for NSW.
- (7) Without limiting subclauses (2) and (3) and Schedule 4, any proceedings commenced by or on behalf of RMS but not completed before its dissolution are taken to have been commenced by or on behalf of TfNSW.
- (8) For the purposes of subclause (7), *proceedings* includes any prosecution, investigation or other enforcement action.

Amalgamation of TfNSW Fund and RMS Fund

- (1) The TfNSW Fund established under section 77 as substituted by the *Transport Administration Amendment (RMS Dissolution) Act 2019* is an amalgamation of and continuation of the following funds—
 - (a) the TfNSW Fund established under section 76A as in force immediately before its repeal by that Act,
 - (b) the RMS Fund established under section 77 as in force immediately before its substitution by that Act.
- (2) A reference in any Act (other than this Act), in any instrument made under any Act or in any document of any kind to the RMS Fund (or the Roads and Maritime Services Fund) is to be construed as a reference to the TfNSW Fund.

Minimum number of TfNSW regional employees

- (1) For the period of 4 years commencing on the date of the dissolution of Roads and Maritime Services, the number of full time equivalent employees of Transport for NSW in regional NSW must not be reduced below the sum of the number of Roads and Maritime Services and Transport for NSW full time equivalent employees in regional NSW immediately before that dissolution.
- (2) In this clause, *regional NSW* means that part of New South Wales that is not within the following areas—
 - (a) the Sydney metropolitan area within the meaning of *Regional Development Act 2004*,
 - (b) the local government area of the City of the Blue Mountains.

No forced redundancies for RMS staff

- (1) The employment of a Transport Service non-executive employee who, immediately before the dissolution of Roads and Maritime Services, was a member of staff of Roads and Maritime Services must not be terminated on the grounds of redundancy (other than voluntary redundancy).
- (2) This clause continues to have effect only while any of the following awards apply to any non-executive employees in the Transport Service—
 - (a) the *Roads and Maritime Services Consolidated Salaried Award 2019*,
 - (b) the *Roads and Maritime Services School Crossing Supervisors Award 2019*,
 - (c) the *Roads and Maritime Services (Traffic Signals Staff) Award 2019*,
 - (d) the *Roads and Maritime Services (Wages Staff) Award 2019*.

No privatisation of certain RMS work

For the period of 4 years commencing on the date of the dissolution of Roads and Maritime Services—

- (a) any work that, immediately before that dissolution, was performed by Roads and Maritime Services must not be privatised to a non-government sector entity, and
- (b) any contract in force immediately before that dissolution for the carrying out of road maintenance work on behalf of Roads and Maritime Services in the Sydney metropolitan area (within the meaning of the *Regional Development Act 2004*) by a non-government sector entity must not be extended in scope.

RMS awards not to be merged into Transport Service awards

- (1) The Transport Secretary must ensure, for the period of 4 years commencing on the date of the dissolution of Roads and Maritime Services, that the existing RMS awards are maintained as separate awards and are not combined with any other award applying to employees in the Transport Service.
- (2) Subclause (1) does not apply to an existing RMS award if all the industrial organisations that are parties to the award consent to the combination.
- (3) In this clause, ***existing RMS award*** means the following—
 - (a) the *Roads and Maritime Services Consolidated Salaried Award 2019*,
 - (b) the *Roads and Maritime Services School Crossing Supervisors Award 2019*,
 - (c) the *Roads and Maritime Services (Traffic Signals Staff) Award 2019*,
 - (d) the *Roads and Maritime Services (Wages Staff) Award 2019*.

Certain industrial disputes regarding dissolution of RMS may be resolved by Industrial Relations Commission

- (1) If a person who, immediately before the dissolution of Roads and Maritime Services, was a member of staff of Roads and Maritime Services to whom an RMS award applied is of the opinion that the person has been materially disadvantaged by that dissolution or actions directly consequent on that dissolution, the person, or an industrial organisation acting on behalf of the person, may apply to the Industrial Relations Commission to have the matter determined by conciliation and, if necessary, arbitration.

- (2) However, the person, or industrial organisation acting on behalf of the person, before making the application to the Industrial Relations Commission under subclause (1), must follow the dispute settlement procedure set out in the applicable RMS award as far as is reasonably practicable in the circumstances.
- (3) The Industrial Relations Commission may conduct the dispute resolution process in a manner that the Commission considers appropriate.
- (4) The Industrial Relations Commission may make orders in relation to the matter that the Commission considers are fair and reasonable in the circumstances.
- (5) If a Transport Service senior executive or Transport Service senior manager who, immediately before the dissolution of Roads and Maritime Services, was a member of staff of Roads and Maritime Services is of the opinion that the executive or manager has been materially disadvantaged by that dissolution or actions directly consequent on that dissolution, the executive or manager, or an industrial organisation acting on behalf of the executive or manager, may apply to the Transport Secretary to review the matter.
- (6) The Transport Secretary may, after reviewing the matter, make directions that the Transport Secretary considers are fair and reasonable in the circumstances.
- (7) The Transport Secretary may delegate any of the Transport Secretary's functions under subclauses (5) and (6) to a person employed in the Transport Service.
- (8) In this clause—
industrial organisation means—
 - (a) an industrial organisation of employees within the meaning of the *Industrial Relations Act 1996*, or
 - (b) an association of employees registered as an organisation under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth.**RMS award** means the following—
 - (a) the *Roads and Maritime Services Consolidated Salaried Award 2019*,
 - (b) the *Roads and Maritime Services School Crossing Supervisors Award 2019*,
 - (c) the *Roads and Maritime Services (Traffic Signals Staff) Award 2019*,
 - (d) the *Roads and Maritime Services (Wages Staff) Award 2019*.
- (9) To avoid doubt, nothing in this clause affects the operation of section 74 of the *Government Sector Employment Act 2013* or section 68O of this Act.
- (10) Subclauses (1), (2) and (5) cease to have effect on the expiry of the period of 4 years commencing on the dissolution of Roads and Maritime Services.

Schedule 2 Consequential amendments to other legislation

2.1 Marine Pollution Regulation 2014

Clause 58 Prescribed officers

Omit clause 58 (c). Insert instead—

- (c) the following members of the Transport Service responsible for maritime matters—
 - (i) Executive Director Maritime,
 - (ii) General Manager, Operations and Compliance,
 - (iii) Principal Manager, Sydney,
 - (iv) Principal Manager, North,
 - (v) Principal Manager, South,
 - (vi) each Manager Operations,
 - (vii) each Boating Safety Officer,
 - (viii) each Senior Boating Safety Officer,

2.2 Roads Act 1993 No 33

[1] Section 144B Roads authority not to obstruct light rail system

Omit section 144B (2) (a).

[2] Section 144C Consent for works and other action relating to light rail system

Omit section 144C (3).

2.3 Transport Administration (General) Regulation 2018

[1] Clause 9 Prescribed traffic control facilities

Omit “section 45E (1) of the Act”. Insert instead “clause 8A of Schedule 1 to the Act”.

[2] Clause 20 Further additional classes of persons to whom TfNSW may delegate functions

Omit “section 50 (3) (d) of the Act” from clause 20 (1).

Insert instead “the definition of *authorised person* in section 3I (3) of the Act”.