

# NORTHERN TERRITORY OF AUSTRALIA

## PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT REGULATIONS

As in force at 13 October 1993

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 13 October 1993

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## PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT REGULATIONS

Regulations under the *Public Sector Employment and Management Act*

### Part 1 Preliminary

#### 1 Citation

These Regulations may be cited as the *Public Sector Employment and Management Regulations*.

### Part 2 General

#### 2 Principles of public administration and management

The following principles of public administration and management shall be observed in the Public Sector:

- (a) the Public Sector shall be administered in a manner which emphasises the importance of optimum service to the community;
- (b) the formulation and delivery of information and advice to the Government shall be done in an objective and impartial manner, and with integrity;
- (c) administrative responsibility and authority shall be clearly defined to allow the expeditious discharge of that responsibility and exercise of authority with appropriate levels of accountability;
- (d) the Public Sector shall be structured and administered so as to enable decisions to be made and actions taken without excessive formality and with a minimum of delay;
- (e) proper standards of financial management and accounting shall be exercised at all times.

### **3 Principles of human resource management**

The following principles of human resource management shall be observed in the Public Sector:

- (a) subject to the Act, the selection of persons to fill vacancies in the Public Sector shall be on the basis of merit;
- (b) human resource management actions shall be taken in such a manner as to ensure the exclusion of nepotism, patronage, favouritism and unlawful and unjustified discrimination on any ground in respect of all employees and persons seeking employment in the Public Sector;
- (c) employees shall be treated fairly and shall not be subject to arbitrary or capricious administrative acts;
- (d) human resource administration and management in the Public Sector shall be consistent with the principles of equal employment opportunity;
- (e) employees shall be:
  - (i) afforded reasonable, independent avenues of redress against improper or unreasonable administrative acts;
  - (ii) afforded reasonable access to training and development; and
  - (iii) remunerated at rates commensurate with their responsibilities.

### **4 Principles of conduct**

The following principles of conduct shall be observed by all employees:

- (a) employees shall perform their official duties with skill, impartiality, professionalism and integrity;
- (b) employees shall disclose their private financial and other interests where those interests may, or may appear to conflict with their official duties, and shall take all reasonable steps to prevent such conflict;
- (c) employees who are responsible for incurring or authorising expenditure shall exercise due economy and ensure the efficient and economical use of government resources and facilities;

- (d) employees shall not take advantage of their official duties, status, powers or authority in order to seek or obtain a benefit for themselves or for any other person or body;
- (e) employees shall exercise proper courtesy, consideration and sensitivity and shall act with fairness and equity in all their dealings with members of the public and with other employees;
- (f) employees shall not engage in improper conduct, in their official capacity or otherwise, that adversely affects the performance of their duties or brings the Public Sector into disrepute.

## **5 Persons excluded from Act**

For the purposes of section 4(2) the Act:

- (a) Parts 7 and 8 and sections 55, 56, 57 and 58 of the Act do not apply to or in relation to an employee employed under an Executive Contract of Employment;
- (b) Parts 7 and 8 and sections 57 and 58 of the Act do not apply to or in relation to an employee employed on a temporary basis; and
- (c) all provisions of the Act do not apply to or in relation to a person employed:
  - (i) under section 24 of the *Conservation Commission Act*;
  - (ii) under section 30 of the *Trade Development Zone Act*; or
  - (iii) for the purposes of the *Totalizator Administration and Betting Act*.

## **6 Prescribed particulars of employees**

For the purposes of section 17(d) of the Act, the prescribed particulars for an employee are:

- (a) full name and any previous names;
- (b) residential and postal address;
- (c) next of kin and/or emergency contact;
- (d) entitlements and the use of those entitlements;
- (e) qualifications;

- (f) any previous designations assigned to the employee;
- (g) details of citizenship;
- (h) medical reports provided under section 31 of the Act;
- (j) Australian Government Staff (AGS) number or other employment number;
- (k) date of birth;
- (m) sex;
- (n) details of dependents;
- (p) disabilities relevant to the employee's employment in the Public Sector; and
- (q) with the consent of the employee, ethnicity or aboriginality.

## **7 Resignations**

For the purposes of section 37 of the Act, all classes of employees shall give not less than 14 days notice of their resignation or such shorter period as their Chief Executive Officer allows.

## **8 Prescribed employee organisations**

- (1) For the purposes of section 41(2) of the Act, the prescribed employee organisation, in respect of an employee, is:
  - (a) an organisation registered under the *Workplace Relations Act 1996* of the Commonwealth to which the employee belongs;
  - (b) where the employee is an officer, within the meaning of the *Prisons (Correctional Services) Act*, the Northern Territory Senior Prison Officers Association or the Northern Territory Prison Officers Association, as the case may be, to which the employee belongs; or
  - (c) where the employee does not belong to an organisation referred to in paragraphs (a) or (b), the employee.
- (2) For the purposes of section 56(2)(c) of the Act, the prescribed employee organisation is the organisation from those specified in subregulation (5) that has the greatest number of members with the designation that is the same as that assigned to the employee who is to perform the duties to which the appeal relates.

- (3) For the purposes of section 57(2)(c) of the Act, the prescribed employee organisation, in respect of an employee or former employee, is:
- (a) the organisation referred to in subregulation (1)(a) or (b) to which the employee or former employer belongs; or
  - (b) where the employee or former employee belongs to more than one such organisation, the organisation that has the greatest number of members with the designation that is the same as that assigned to the employee or that was assigned to the former employee.
- (4) For the purposes of subregulations (2) and (3), the Commissioner shall, in the event of a dispute between organisations referred to in those subregulations, determine which is the prescribed organisation.
- (5) For the purposes of subregulation (2), the organisations are:
- (a) organisations registered under the *Workplace Relations Act 1996* of the Commonwealth;
  - (b) the Northern Territory Senior Prison Officers Association; and
  - (c) the Northern Territory Prison Officers Association.

## **Part 3            Appeal Boards**

### **Division 1        Promotions Appeal Boards**

#### **9                  Central promotions appeal board**

For the purposes of section 55 of the Act, the Commissioner may designate a Promotions Appeal Board established under section 56 of the Act as the Central Promotions Appeal Board, and the Chairperson of that Board shall ensure appeals under section 55 are dealt with expeditiously.

#### **10                Procedure on appeal**

An appeal under section 55(1) of the Act shall be in writing and lodged with the Chairperson of the Central Promotions Appeal Board within the time specified in that section.

**11            Constitution of Promotions Appeal Boards**

An employee shall not be nominated as a member of a Promotions Appeal Board under section 56(2)(b) of the Act if the employee is the employee selected to perform duties by way of promotion or has appealed against the employee selected to perform the duties.

**12            Conduct of inquiries**

A Promotions Appeal Board:

- (a) shall conduct its proceedings with as little formality and technicality, and with as much expedition as is possible; and
- (b) is not bound by the rules of evidence and may inform itself in such manner as it thinks fit.

**Division 2            Inability and Disciplinary Appeal Boards**

**13            Procedure on lodging an appeal**

- (1) An appeal under section 57(1) of the Act shall be in writing specifying the grounds of the appeal and shall be lodged with the Commissioner.
- (2) The prescribed employee organisation referred to in section 57(2)(c) of the Act shall, not later than 7 days after being notified of the appeal, nominate the person who is to be the member of the Appeal Board.
- (3) If a party to an appeal under this Division does not attend at the time and place fixed under the Act for the hearing of the appeal, the Appeal Board may proceed to determine the appeal in the absence of the party.

**14            Witnesses**

A witness before an Appeal Board under this Division has the same protection and is subject to the same liabilities as a witness in the Supreme Court.

**15            Evidence taken outside hearing**

- (1) Where an Appeal Board hearing an appeal under this Division considers that it is undesirable to require the appellant or a witness to attend before the Board to give evidence:
  - (a) because the appellant is performing duties or the witness resides or is performing duties outside the Territory or in a remote locality in the Territory; or



- (b) because of the expense, inconvenience or delay that would result in requiring the appellant or witness to attend before the Board,

the Board may appoint a fit and proper person to take the evidence of the appellant or witness.

- (2) A person appointed under subregulation (1) shall take the evidence of the appellant or witness on oath or affirmation and, for that purpose, has all the powers of the Chairperson of the Appeal Board.
- (3) Evidence taken under this regulation shall be certified under the hand of the person taking it and forwarded by the person to the Appeal Board hearing the appeal.

## **16 Copy documents to be furnished or inspected**

- (1) Copies of all documents intended to be used at the hearing of an appeal under this Division shall, where practicable, be furnished to the other party or parties and to the Chairperson by the party intending to rely on them not later than 7 days before the date fixed for the hearing.
- (2) Notwithstanding subregulation (1), the Chairperson may allow a document to be used at a hearing of an appeal under this Division where the document has not been furnished in the period referred to in that subregulation where the Chairperson is satisfied that to do so will not disadvantage the other parties to the appeal.
- (3) The Chairperson may require a party to an appeal under this Division to produce documents in the party's possession to the Appeal Board and the party shall produce the documents as directed.

## **17 Appellant's expenses**

- (1) Where an appeal under this Division is allowed by an Appeal Board, the Board may recommend to the Commissioner that the Commissioner pay the reasonable expenses, or a specified part of the reasonable expenses, incurred by the appellant in relation to the appeal, and where the Board so recommends, an amount equal to those expenses, or that part of those expenses, as the case may be, may be paid by the Commissioner to the appellant.
- (2) Expenses incurred by the Commissioner relating to the appellant shall be reimbursed by the Agency in which the appellant is or was employed, if the Commissioner so determines.

## **18            Witnesses expenses**

- (1) A witness at a hearing of an appeal under this Division, not being an employee summoned on behalf of the Commissioner, shall, with the approval of the Chairperson of the Appeal Board hearing the appeal, be paid an allowance by the Commissioner.
- (2) The allowance referred to in subregulation (1) shall be an amount equal to the amount of salary or wages lost by the witness for the day or days of attendance at the hearings or, if the witness is not in receipt of salary or wages, an amount which would be reasonable having regard to the occupation of the witness and the time lost in attendance.
- (3) Subject to subregulation (4), in addition to the allowance referred to in subregulation (1), a witness is entitled to be paid the cost of his or her conveyance to the hearing and reasonable travelling expenses.
- (4) Subject to subregulation (5), the Commissioner is not required to pay travelling expenses or any other expenses incurred by a witness summoned by or on behalf of an appellant.
- (5) Subregulation (4) does not apply where the Appeal Board hearing the appeal allows the appeal, and the evidence of the witness summoned by or on behalf of the appellant was, in the opinion of the Chairperson of the Board, material.
- (6) A claim for witnesses' expenses in connection with the hearing of an appeal under this Division shall be submitted to the Chairperson of the Appeal Board hearing the appeal who shall furnish to the Commissioner certificates as to attendance and such other particulars as may be necessary to enable the Commissioner to assess the amounts to be paid under this regulation.
- (7) An expense incurred by the Commissioner relating to a witness shall be reimbursed by the Agency in which the appellant is or was employed, if the Commissioner so determines.

## **Division 3            Miscellaneous**

### **19            Majority decision**

Where the members of an Appeal Board are divided on a question, the question shall be decided according to the decision of the majority of the members.

**20 Protection of Chairperson and members**

- (1) An action or proceeding, civil or criminal, does not lie against the Chairperson or a member of an Appeal Board for or in respect of an act or thing done in good faith by the Chairperson or the member in the administration of these Regulations.
- (2) A member of an Appeal Board who is an employee is not subject to direction as an employee in respect of the performance of duties as a member of the Board.

**Part 4 Public Sector Consultative Council****21 Definition**

In this Part, ***Consultative Council*** means the Public Sector Consultative Council established by regulation 22.

**22 Public Sector Consultative Council**

- (1) There is established by this regulation the Public Sector Consultative Council.
- (2) The Consultative Council shall be constituted by:
  - (a) the Commissioner, who is the Chairperson of the Council;
  - (b) a person appointed by the Commissioner;
  - (c) 6 persons appointed by the Commissioner from persons nominated by the Chief Executive Officers; and
  - (d) 8 persons appointed by the Commissioner from persons nominated by the Northern Territory Trades and Labor Council.
- (3) A person shall not be nominated under subregulation (2)(d) unless the person is a member of an organisation registered under the Industrial Relations Act 1988 of the Commonwealth.
- (4) Where a person who is appointed under subregulation (2)(c) or (d) is unable to attend a meeting of the Consultative Council through illness or other cause then, in respect of a person appointed under:
  - (a) subregulation (2)(c), the person; or
  - (b) subregulation (2)(d), the Northern Territory Trades and Labour Council,

may nominate a deputy to attend the meeting in place of that person, and the deputy may, at the meeting, act in place of that person.

- (5) A nomination under this regulation shall be in writing and shall be forwarded to the Commissioner as soon as practicable after the nominee is selected.

### **23 Deputy Chairperson**

There is a Deputy Chairperson of the Consultative Council who shall be elected by the Council from the persons appointed under regulation 22(2)(d).

### **24 Powers of Deputy Chairperson**

Where the Chairperson is unable to attend or is absent for a period from a meeting of the Consultative Council, the Deputy Chairperson shall preside at the meeting, or during the period of absence of the Chairperson, as the case may be.

### **25 Meetings**

- (1) The Consultative Council shall meet at such times and places as the Commissioner directs, having regard to the nature and volume of business to be considered by the Council.
- (2) At a meeting of the Consultative Council, 7 members:
- (a) one of whom shall be the Chairperson or Deputy Chairperson;
  - (b) one of whom shall be the person appointed under regulation 22(2)(b);
  - (c) 2 of whom shall be persons appointed under regulation 22(2)(c); and
  - (d) 3 of whom shall be persons appointed under regulation 22(2)(d),

shall constitute a quorum.

### **26 Standing committees**

The Consultative Council may establish standing committees to consider the needs of particular occupational groups in the Public Sector.

**27 Functions of Consultative Council**

- (1) The functions of the Consultative Council are to consider such matters of general interest in relation to the Public Sector as are referred to it by the Commissioner and to make reports and recommendations on those matters to the Commissioner.
- (2) A Chief Executive Officer, an employee organisation or an employee may submit to the Commissioner any matter considered to be a matter of general interest in relation to the Public Sector, and the Commissioner shall refer the matter to the Consultative Council for consideration.

**28 Procedure**

The Consultative Council may decide any matter relating to the conduct of its business and the procedures to be adopted at its meetings.

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**ENDNOTES****1 KEY**

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
Gaz = Gazette  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

**2 LIST OF LEGISLATION*****Public Sector Employment and Management Regulations (SL No. 16, 1993)***

Notified	29 June 1993
Commenced	1 July 1993 (s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and Gaz S53, 29 June 1993)

***Amendment of Public Sector Employment and Management Regulations (SL No. 35, 1993)***

Notified	13 October 1993
Commenced	13 October 1993

**3 LIST OF AMENDMENTS**

r 22            amd No. 35, 1993