



NORTHERN TERRITORY OF AUSTRALIA

No. 32 of 1987

AN ACT

relating to terms and conditions of employment of certain persons employed in the Northern Territory Public Service or in the service of certain public authorities, institutions or bodies, to amend the *Public Service Act* and the *Teaching Service Act*, to amend the Public Service (Terms and Conditions of Employment) By-laws, and for related purposes

[Assented to 03 July, 1987]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Public Employment (Modification of Terms and Conditions of Employment) Act 1987*.

2. COMMENCEMENT

(1) Sections 1 and 2 shall come into operation on the day on which the Administrator's assent to this Act is declared.

(2) The remaining provisions of this Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. DEFINITION

In this Act "terms and conditions of employment" means terms and conditions relating to matters prescribed in Schedule 1 or 2.

*Public Employment (Modification of Terms and
Conditions of Employment)*

4. APPLICATION

(1) This Act applies to all persons who are employees within the meaning of the *Public Service Act*, officers and employees within the meaning of the *Teaching Service Act*, members of the Police Force, other persons employed by the Territory and persons employed in or by a corporation (other than a municipal authority) established for a public or commercial purpose of the Territory by a law of the Territory, whether those employees, officers, members or persons were appointed or engaged (or shall be deemed to have been appointed or engaged) before or after the commencement of this section, other than a person, or a member of a class of persons, prescribed under subsection (2).

(2) The Minister may, by notice in the *Gazette*, declare that a person, or members of a class of persons, specified in the notice is not a person or are not persons to whom this Act applies.

5. TERMS AND CONDITIONS OF EMPLOYMENT

Notwithstanding any other law in force in the Territory, an instrument of a legislative or administrative character made under such a law, a contract or agreement (whether or not in writing) or an arrangement or understanding (whether or not express), but subject to section 10, to the extent that it is within the legislative power of the Legislative Assembly so to provide and not inconsistent with an award or order made under the *Conciliation and Arbitration Act 1904* of the Commonwealth, the terms and conditions of employment of a person to whom this Act applies shall be construed subject to Schedule 1 or a provision referred to in that Schedule.

6. AMENDMENTS OF BY-LAWS UNDER *PUBLIC SERVICE ACT*

(1) The Public Service (Terms and Conditions of Service) By-laws made under the *Public Service Act* and in force immediately before the commencement of this section are amended as set out in Schedule 2.

(2) The Public Service (Terms and Conditions of Service) By-laws as amended by this Act may be repealed or further amended as if the amendments made by this Act were duly made by the Public Service Commissioner.

7. ACT TO BE CONSTRUED SO AS NOT TO PROVIDE FOR ACQUISITION OF PROPERTY

(1) Nothing in this Act or a provision referred to in this Act shall be construed as providing or allowing for the acquisition of property and this Act shall be read and construed so as not to exceed the limitation on the legislative power of the Legislative Assembly provided by section 50(1) of the *Northern Territory (Self-Government) Act 1978* of the Commonwealth.

*Public Employment (Modification of Terms and
Conditions of Employment)*

(2) Subject to subsection (1), this Act shall be given the fullest possible effect in relation to persons to whom it applies.

8. AMENDMENT OF *PUBLIC SERVICE ACT*

(1) Section 41(9) of the *Public Service Act* is amended by omitting "A transferred employee" and substituting "Subject to the *Public Employment (Modification of Terms and Conditions of Employment) Act*, a transferred employee".

(2) Section 60(5) of the *Public Service Act* is amended by omitting "In relation to" and substituting "Subject to the *Public Employment (Modification of Terms and Conditions of Employment) Act*, in relation to".

9. AMENDMENT OF *TEACHING SERVICE ACT*

(1) Section 14(5) of the *Teaching Service Act* is amended by inserting after "transferred officers" the words "(other than terms and conditions relating to an entitlement to or payment of a Northern Territory allowance or fares)".

(2) Section 55(4) of the *Teaching Service Act* is amended by inserting after "transferred officer" the words "(other than conditions relating to the entitlement to or payment of a Northern Territory allowance or fares)".

10. ACT NOT TO RESULT IN MORE FAVOURABLE TERMS AND CONDITIONS

Nothing in this Act shall be construed as entitling a person to whom this Act applies to terms and conditions of employment more favourable than those applying to the person in such employment before the commencement of this section.

*Public Employment (Modification of Terms and
Conditions of Employment)*

SCHEDULE 1

Section 5

TERMS AND CONDITIONS OF EMPLOYMENT

DRIVE OUT TIME

A person to whom this Act applies, recruited after the commencement of this Schedule, is not entitled to any leave in addition to ordinary accrued recreation leave for the purpose of travelling from the person's place of employment to a place within or outside the Territory.

NORTHERN TERRITORY ALLOWANCE

(1) Except as provided by clause (2), a person to whom this Act applies is not entitled to an allowance in the nature of a Northern Territory allowance (by whatever name called) or for living in the Territory or a particular place in the Territory.

(2) A person to whom this Act applies who maintains a dependant or dependants is entitled to an allowance of \$960 per annum irrespective of the person's classification, place of employment or number of dependants.

AIRFARES

Except as provided by contract or a determination under the *Public Service Act* or the *Teaching Service Act*, there shall be no airfare entitlement or payment in lieu of an airfare entitlement for a person to whom this Act applies recruited after the commencement of this Schedule, or in respect of a dependant of such a person.

*Public Employment (Modification of Terms and
Conditions of Employment)*

SCHEDULE 2

Section 6(1)

AMENDMENT OF PUBLIC SERVICE (TERMS AND
CONDITIONS OF EMPLOYMENT) BY-LAWS

By-law	How amended
36	Omit clauses (5), (6) and (7).
56	Omit clauses (1), (2), (3), (4) and (5) and substitute the following: "(1) Subject to clause (2), an employee who is permanently stationed in the Northern Territory shall accrue an airfare for himself and his dependants on the completion of 2 years of service in the Northern Territory, with subsequent airfares accruing after completion of each further 2 years of service in the Northern Territory. "(2) An employee who is permanently stationed in the Northern Territory and who commenced duty in the Public Service on or before 31 July 1985 shall accrue an airfare for himself and his dependants on completion of 2 years of service in the Northern Territory after he last became entitled to the grant of an airfare, with subsequent airfares accruing after completion of each further 2 years of service in the Northern Territory. "(3) An employee who has accrued 3 airfares and who, on the date on which his next airfare accrues, has not used the first accrued of those airfares, shall forfeit that first accrued airfare on the date of that next airfare accrual. "(4) For the purposes of this by-law - 'leave of absence' means a period of not less than 4 weeks - (a) recreation leave; (b) long service leave; or (c) sick leave on full or half pay;

*Public Employment (Modification of Terms and
Conditions of Employment)*

SCHEDULE 2 - continued

By-law	How amended
	<p>'dependant', in relation to an employee, means -</p> <ul style="list-style-type: none">(a) the employee's spouse, including de facto spouse, and children who:<ul style="list-style-type: none">(i) reside permanently with the employee;(ii) are not in receipt of income, the weekly average of which over the 6 months period immediately preceding the date of proceeding on leave of absence exceeds the weekly minimum adult wage; and(iii) are not eligible for fares assistance as a term or condition of service from any other source; and(b) any other person approved by the Commissioner for that purpose. <p>"(5) An employee who travels during leave of absence away from the district or place where he is stationed, shall be granted a return economy class airfare for travel by the most direct route from his station to Adelaide, or destination of a lesser distance provided that the cost of that travel does not exceed the value of the return economy class airfare to Adelaide."</p> <p>Omit clause (10) and substitute the following:</p> <p>"(10) An employee who, in accordance with clauses (5) to (9), travels away from his headquarters during a period of leave of absence, and the travel undertaken is wholly within the Northern Territory, shall be paid an amount equivalent to the value of the return economy class airfare, for himself and his dependants, from his headquarters to Adelaide, regardless of the actual cost of travel involved."</p> <p>Omit clause (11).</p>

*Public Employment (Modification of Terms and
Conditions of Employment)*

SCHEDULE 2 - continued

By-law	How amended
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Omit clause (12) and substitute the following:

"(12) An employee who commences duty in the Public Service on or after 1 August 1987 shall have no entitlement to the grant of airfares for the employee or the employee's dependants under this by-law."
