

NORTHERN TERRITORY OF AUSTRALIA
PUBLIC SERVICE AMENDMENT ACT 1987

No. 23 of 1987

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NORTHERN TERRITORY OF AUSTRALIA

No. 23 of 1987

AN ACT

to amend the *Public Service Act*

[Assented to 25 June, 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 Service Amendment 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 the commencement of the *Power and Water Authority Act 1987* (other than sections 1 and 2 of that Act).

3. NEW PART

The *Public Service Act* is amended by inserting after Part VIA the following:

"PART VIB - CERTAIN EMPLOYEES MAY TRANSFER TO
THE POWER AND WATER AUTHORITY

"44M. DEFINITIONS

"In this Part, unless the contrary intention appears -

"'Authority' means the Power and Water Authority established under the *Power and Water Authority Act*;

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"'employee to whom this Part applies' means an employee who, as at the commencement of the *Power and Water Authority Act*, performed the employee's duties as a Public Servant for the Northern Territory Water Authority;

"'transferable employee' means an employee to whom this Part applies who elected pursuant to section 44Q(b) to be a transferable employee;

"'transferred employee' means an employee to whom this Part applies who elected pursuant to section 44Q(a) to be a transferred employee.

"44N. EMPLOYEES TO MAKE ELECTION

"An employee to whom this Part applies shall in writing, on the commencement of this Part, elect -

- (a) subject to section 44Q, to transfer to and be an employee of the Authority; or
- (b) to not transfer to the Authority and to remain an employee under this Act.

"44P. ELECTION NOT TO TRANSFER

"An employee who makes an election under section 44N(b) remains in the Public Service and, until otherwise determined by the Commissioner, the Commissioner is, in relation to that employee, the Chief Executive Officer.

"44Q. EMPLOYEES ELECTING TO TRANSFER

"An employee who makes an election under section 44N(a) shall also elect to be either -

- (a) a transferred employee - in which case section 44R applies; or
- (b) a transferable employee - in which case sections 44S to 44W apply.

"44R. TRANSFERRED EMPLOYEES

"(1) An election to be a transferred employee shall be effective as a resignation from the Public Service.

"(2) A transferred employee shall, notwithstanding any determination of the Authority to the contrary pursuant to section 15(2)(z) of the *Power and Water Authority Act*, be entitled, upon transfer, to be paid salary or wages at a rate not less than the rate at which salary or wages, as the case may be, was payable to the employee in respect of the designation that was held, other than temporarily, in the Public Service immediately before the employee was transferred.

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"(3) Where, but for the transfer, the salary payable to a transferred employee would or might have been increased by an increment in salary in respect of the substantive designation held immediately before the transfer, the entitlement to salary by virtue of this section on the transfer includes an entitlement to increments of salary on the same terms as applied to the employee immediately before the transfer.

"44S. TRANSFERABLE EMPLOYEES

"(1) Subject to this section, a transferable employee is on leave of absence without pay from the Public Service while he is an employee of the Authority.

"(2) The resignation or retirement of a transferable employee from the employment of the Authority is effective as a resignation or retirement, as the case may be, from the Public Service.

"(3) Subject to subsection (4), an election to be a transferable employee does not operate to prevent the person transferred from applying for or appealing against a promotion or transfer to a vacant designation in the Public Service.

"(4) A transferable employee may not apply for or appeal against a promotion or transfer to a designation that is temporarily vacant.

"(5) A transferable employee shall be deemed, by virtue of the transfer, to have been duly appointed, on the date of the transfer, to be an employee of the Authority -

- (a) except where paragraph (b) applies - without probation; or
- (b) if the employee's appointment to the Public Service has not been confirmed before that date and appointment to the employment of the Authority is in the first instance upon probation - upon probation,

upon terms, subject to sections 44W and 44X, entitling him to continue to be employed by the Authority for a period not less than the period for which he would have been employed in the Public Service if he had not been transferred.

"44T. REMUNERATION AND OTHER BENEFITS

"(1) A transferable employee shall be entitled, upon transfer, to be paid salary or wages at a rate not less than the rate at which salary or wages, as the case may be, was payable to the employee in respect of the designation that was held, other than temporarily in the Public Service immediately before the employee was transferred.

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"(2) Where, but for the transfer, the salary payable to a transferable employee would or might have been increased by an increment in salary in respect of the substantive designation held immediately before the transfer, the entitlement to salary by virtue of this section on the transfer includes an entitlement to increments of salary on the same terms as applied immediately before the transfer.

"(3) A transferable employee shall retain such rights, if any, in respect of -

- (a) recreation leave;
- (b) leave on the ground of illness; and
- (c) long service leave,

as had accrued to him as an employee in the Public Service immediately before the date of the transfer.

"44U. PROVISIONAL PROMOTIONS

"(1) Where a transferable employee -

- (a) has, whether before the date of transfer to the Authority or afterwards, been provisionally promoted to a vacant designation in the Public Service; or
- (b) has appealed against the provisional promotion of another person to fill such a designation,

this Act continues to apply, on and after the date of the transfer, to and in relation to the promotion as if the transferable employee had not been transferred and any service in the Authority were service in the Public Service.

"(2) Where, in respect of a promotion to which this section applies, the provisional promotion of a transferable employee is confirmed or a transferable employee is promoted in place of another person who was provisionally promoted, the transferable employee shall be deemed to have become the holder of the designation on the date on which the employee, or that other person, was provisionally promoted to the designation.

"44V. AUTHORITY FOR DEDUCTION

"An authority, given by a transferred employee or a transferable employee and in force immediately before transfer, for the deduction of an amount from each payment of salary for the payment of that amount to a specified body or person continues in force as such an authority on and after the transfer until cancelled.

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"44W. TRANSFERABLE EMPLOYEES MAY ELECT TO RETURN TO PUBLIC SERVICE

"(1) A transferable employee may, within 2 years after the commencement of the *Power and Water Authority Act*, elect in writing to cease to be an employee of the Authority and to return to duty in the Public Service.

"(2) A transferable employee who makes an election pursuant to subsection (1) shall return to duty in the Public Service within 2 years after the commencement of the *Power and Water Authority Act* and, for this purpose, service as an employee of the Authority shall be deemed to be service in the Public Service and, until otherwise determined by the Commissioner, the Commissioner is, in respect of the employee, the Chief Executive Officer.

"44X. EMPLOYEES WHO ELECT NOT TO RETURN TO PUBLIC SERVICE

"(1) A transferable employee who does not elect under section 44W to return to duties in the Public Service shall be deemed, on the expiration of a period of 2 years after the commencement of the *Power and Water Authority Act*, to have resigned from the Public Service and to have become a transferred employee, and the provisions of section 44R shall apply accordingly.

"(2) Notwithstanding the provisions of subsection (1) or section 44R, where a transferred employee was an officer of the Australian Public Service to whom section 39 applies, that employee shall, for the purpose only of retaining any rights still existing in respect of the Australian Public Service, be deemed not to have resigned pursuant to those provisions."

4. ABOLITION OF NORTHERN TERRITORY WATER AUTHORITY

(1) The Northern Territory Water Authority is abolished.

(2) The instrument establishing the Northern Territory Water Authority as published in *Gazette No. S90* of 24 December 1986 at page 1 is revoked.
