

# THE NORTHERN TERRITORY OF AUSTRALIA

No. 102 of 1979

## AN ACT

To amend the Public Service Act

[Assented to 10 September 1979]

**B**E 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. This Act may be cited as the Public Service Act (No.2) 1979. Short title
  2. The Public Service Act is in this Act referred to as the Principal Act. Principal Act
  3. This Act shall come into operation on a date to be fixed by the Administrator by notice in the Gazette. Commencement
  4. After Part VI of the Principal Act the following Part is inserted:  

"PART VIA - TRANSFER OF CERTAIN  
EMPLOYEES TO THE NORTHERN TERRITORY  
ELECTRICITY COMMISSION
- "44A. In this Part, unless the contrary intention appears - Definitions
- 'Commission' means the Commission within the meaning of the Electricity Commission Act;
- 'transferred employee' means an employee who is transferred under section 44B.
- "44B. The Minister may, on or before 1 January 1980, by instrument under his hand, transfer an employee to be an employee of the Commission. Transfer
- "44C.(1) Subject to this section, a transferred employee is on leave of absence without pay from the Public Service while he is an employee of the Commission. Leave without pay

Public Service (No. 2)

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

Promotion

"44D.(1) Subject to sub-section (2), the transfer of an employee to the employment of the Commission under section 44B does not operate to prevent the person transferred from applying for or appealing against a promotion or transfer to a vacant designation.

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

Probation

"44E. A transferred employee shall be deemed, by virtue of his transfer, to have been duly appointed, on the date of his transfer, to be an employee of the Commission -

(a) except where paragraph (b) applies - without probation; or

(b) if his appointment to the Public Service has not been confirmed before that date and appointment to the employment of the Commission is in the first instance upon probation - upon probation,

upon terms entitling him to continue to be employed by the Commission 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.

Remuneration

"44F.(1) A transferred employee shall be entitled, upon his 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 him in respect of the designation that he held, other than temporarily, in the Public Service immediately before he was transferred.

"(2) Where, but for his 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 by him immediately before the transfer, the entitlement to salary by virtue of this section on his transfer includes an entitlement to increments of salary on the same terms as applied to him immediately before his transfer.

Public Service (No. 2)

"44G. A transferred employee who is, on the date of his transfer, performing duty for an authority, body or person by reason of his having been authorized to do so under this Act -

Duty with  
other bodies

- (a) shall be entitled to continue, on and after that date, to perform duty for that authority, body or person for the remainder of the period for which he had been authorized to do so as if he had been authorized to do so in accordance with the terms and conditions of his service in the Commission and upon terms or conditions similar to the terms and conditions upon which he was authorized to do so under this Act;
- (b) shall be deemed to have been granted, on the date of his transfer, leave of absence without pay from the Commission for the period commencing on that date and ending on the last day of the period for which he is to be treated as authorized to perform duty for that authority, body or person; and
- (c) shall be entitled, upon the termination of the leave of absence referred to in paragraph (b), to be paid salary at the rate that the Commissioner determines to be the appropriate rate having regard to the rate at which salary was payable to him in respect of the designation held by him, other than temporarily, in the Public Service immediately before he commenced to perform duty for that authority, body or person and the period during which he performed that duty.

"44H.(1) A transferred employee shall retain such rights, if any, in respect of -

Retention of  
leave

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

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

"(2) The entitlement of a transferred employee to long service leave in respect of his service in the Public Service shall be determined -

- (a) in accordance with a rate of accrual of long service leave that is not less than the rate of accrual of long service leave that was applicable to him, immediately before his transfer, in respect of his service in the Public Service under this Act; and

Public Service (No. 2)

- (b) in respect of a period of service that is not less than the period ascertained by aggregating the period of his service in the Commission after his transfer and the period that was, immediately before his transfer, the period of his service for the purposes of long service leave for the purposes of this Act,

and the amount of pay in lieu of long service leave payable to, or in relation to, a transferred employee shall be calculated in a like manner.

"(3) A transferred employee to whom leave of absence has been granted from the Public Service for a period commencing on or before the date of his transfer and ending after that date shall be deemed to have been granted leave of absence for the purpose for which that leave was granted for the period commencing on the date of his transfer and ending on the last day of the first-mentioned period.

"(4) The probationary service in the Public Service of a transferred employee who is deemed to have been appointed as an employee of the Commission on probation shall be treated as probationary service in the Commission.

"(5) Where a transferred employee ceases to be employed in the Commission and returns to duty in the Public Service, he retains 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 Commission immediately before his return to duty in the Public Service.

Provisional  
promotions

"44J.(1) Where -

- (a) a transferred employee -
  - (i) had, before the date of his transfer, been provisionally promoted to a vacant designation in the Public Service; or
  - (ii) had appealed, before that day, against the provisional promotion of another person to fill such a designation; and

Public Service (No. 2)

- (b) the promotion had not been confirmed or cancelled before that day,

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

"(2) Where, in respect of a promotion to which this section applies, the provisional promotion of a transferred employee is confirmed or a transferred employee is promoted in place of another person who was provisionally promoted -

- (a) the transferred employee shall be deemed to have become the holder of the designation on the date on which he, or that other person, was provisionally promoted to the designation; and
- (b) if the vacant designation was not in the service of the Commission, the transferred employee shall be deemed not to have been transferred, but any amount paid to him as salary in respect of his service in the Commission shall be deemed to have been paid to him as salary under this Act.

"44K. An authority, given by a transferred employee and in force immediately before his transfer, for the deduction of an amount from each payment of his salary for the payment of that amount on his behalf to a specified body or person continues in force as such an authority on and after his transfer until cancelled."

Authority for deduction

5. The Second Schedule to the Principal Act is amended by omitting -

Second Schedule

"Northern Territory Electricity Commission Ordinance"



