

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1995, No. 10*

Regulations under the *Financial Management Act*

I, KEITH JOHN AUSTIN ASCHE, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Financial Management Act 1995*.

Dated 30 March 1995.

K.J.A. ASCHE
Administrator

FINANCIAL MANAGEMENT REGULATIONS

1. CITATION

These Regulations may be cited as the *Financial Management Regulations*.

2. COMMENCEMENT

These Regulations shall come into operation on the commencement of the *Financial Management Act 1995*.

3. INTERPRETATION

In these Regulations, unless the contrary intention appears -

"employee", in relation to the Territory or an Agency, means a person employed by or in the business of an Agency, and includes the Accountable Officer and a former employee;

* Notified in the *Northern Territory Government Gazette* on 31 March 1995.

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"gross salary" means the total amount of remuneration payable to an employee as part of his or her employment or contract of service or, where the employee is employed under an Executive Contract of Employment, within the meaning of the *Public Sector Employment and Management Act*, means the amount that, in the opinion of the Treasurer, is equal to the monetary value to the employee of the employee's remuneration and other entitlements under that contract;

"overpayment" means money paid to, or on behalf of, an employee, in excess of the amount to which the employee is legally entitled;

"public property" means all property held for or on behalf of the Territory or an Agency, but does not include money.

4. LOSS OF MONEY HELD BY EMPLOYEE

(1) Where there occurs a loss of money while the money is under the control of an employee, the amount of the loss is a debt due and payable by the employee to the Territory or relevant Agency.

(2) Where an employee defends an action brought to recover money under subsection (1), the Territory or relevant Agency is entitled to judgment if it is proved that -

- (a) the defendant is an employee;
- (b) the money the subject of the action was under the control of the defendant; and
- (c) the defendant converted the money to his or her own use or was guilty, by act or omission, of culpable negligence in relation to the control he or she exercised over the money.

(3) For the purposes of this regulation, money is taken to be under the control of an employee if it has been collected or received by or has come into the custody of the employee but has not been paid to another person or to the credit of a bank account as required by or under an instrument of a legislative or administrative character.

5. OVERPAYMENTS

(1) An overpayment of money by the Territory or an Agency to an employee is a debt due and payable by the employee to the Territory or Agency and may be recovered from the employee in a court or as provided by this regulation.

(2) Without limiting or affecting any other right of the Territory or an Agency to recover an overpayment, the

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Territory or Agency may recover an overpayment by a deduction or deductions from any amount due by the Territory or Agency to the employee.

(3) Except with the agreement in writing of the employee, a deduction under regulation (2) from the gross salary due to an employee shall not exceed 10% of that gross salary.

(4) The Treasurer or the Accountable Officer of an Agency may, on application by an employee, approve a decrease in the amount of a deduction under subregulation (3).

(5) Action shall not be taken to recover an overpayment unless the employee has been given the opportunity to submit a proposal for the repayment of the amount concerned and the proposal, if any, has been considered.

6. DAMAGE TO, OR LOSS OR DESTRUCTION OF, PUBLIC PROPERTY

(1) Where -

(a) damage to public property has occurred, the value of the property or, where the damage to the property may be repaired, the cost of repairing the damage; or

(b) public property has been lost or destroyed, the value of the property,

is a debt to and payable to the Territory or relevant Agency by -

(c) the employee in whose care the property was at the material time; or

(d) another employee who contributed to the damage to or loss or destruction of the property.

(2) For the purposes of subregulation (1), public property is taken to be in the care of an employee if it has been received by the employee and has not been returned or delivered to another person entitled to receive it on behalf of the Territory or the relevant Agency.

(3) Where an employee defends an action brought under this regulation, the Territory or relevant Agency is entitled to judgment if the defendant -

(a) was at the material time an employee; and

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- (b) converted the property to his or her own use or by his or her culpable negligence caused or contributed to the damage to or loss or destruction of the property.

(4) Where the negligence or misconduct of an employee was not the sole cause of the damage to or loss or destruction of the property, the Territory or Agency may recover from the employee only so much of the damage, or the cost of replacing the property, as is just and equitable having regard to the contribution made by the employee to the damage, loss or destruction as determined by the court.

7. RIGHTS OF RECOVERY

(1) Subject to subregulation (2), these Regulations do not affect a right of the Territory or an Agency to recover an amount from an employee otherwise than under these Regulations.

(2) The Territory or an Agency shall not recover amounts from the one employee both under these Regulations and otherwise than under these Regulations, in respect of the same damage, loss, destruction or overpayment.

8. TRANSFERS OF ALLOCATIONS BETWEEN ACTIVITIES

For the purposes of -

- (a) subsection 20(1)(b) of the Act, the prescribed limit is \$1,000,000; and
- (b) subsection 20(1)(c) of the Act, the prescribed limit is \$100,000.

9. REPEAL

The Treasury Regulations continued in force by section 45 of the Act, are repealed.
