

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1980, No. 47 \*

Regulations under the Public Service Act

I, JOHN ARMSTRONG ENGLAND, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the Public Service Act.

Dated this

day of 14 NOV 1980, 1980.

J. A. ENGLAND  
Administrator

By His Honour's Command

M. B. PERRON

Chief Minister

REPLACES & MINISTER FOR INDUSTRIAL DEVELOPMENT  
ACTING FOR AND ON BEHALF OF THE

AMENDMENTS OF THE PUBLIC SERVICE REGULATIONS

1. DEFINITIONS

Regulation 3 of the Public Service Regulations is amended -

- (a) by omitting "regulation 7(3)" from the definition of "Central Promotions Appeal Board" and substituting "regulation 9(1)";
- (b) by inserting after the definition of "Consultative Council" the following definition:

"'designation' means a designation listed in Schedules 1 and 2 to the Public Service (Salaries and Designations) By-laws for the purposes of the staffing of the Public Service;"

\* Notified in the Northern Territory Government Gazette  
on 14 NOV 1980, 1980.

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- (c) by omitting the definitions of "the Ordinance" and "Police Force"; and
- (d) by omitting the definition of "organization" and substituting the following definition:

"organization' means an organization within the meaning of the Conciliation and Arbitration Act 1904 of the Commonwealth."

### 2. REPEAL AND SUBSTITUTION

Part II of the Public Service Regulations is repealed and the following Part substituted:

#### "PART II - VACANCIES AND PROMOTIONS APPEAL BOARDS

##### "4. APPEAL AGAINST FAILURE TO APPOINT

"(1) A person affected by a decision under section 31 of the Act may apply in writing to the Commissioner for a review of the decision.

"(2) The Commissioner shall, after receiving a report from the Chief Executive Officer or prescribed authority concerned, consider an application under sub-regulation (1) and shall confirm the decision or substitute his own decision for the decision of the Chief Executive Officer or prescribed authority.

##### "5. DECLINING TRANSFER

"For the purposes of section 32(3) of the Act, the time within which an employee may decline a transfer is 14 days, or such longer period as the Commissioner allows, after the employee receives notification that he has been transferred.

##### "6. APPROPRIATE ORGANIZATION

"(1) For the purposes of regulation 7, the Commissioner may classify designations into designation groups.

"(2) Subject to sub-regulations (3) and (4), the appropriate organization for the purposes of regulation 7(2)(c) in respect of an appeal is the organization the rules of which provide that an employee who holds a designation within the designation group to which the provisional promotion has been made is eligible for membership of that organization.

"(3) Where 2 or more organizations have rules that provide that an employee who holds a designation within the designation group to which a provisional promotion has been made is eligible for member-

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ship of that organization, the appropriate organization for the purposes of regulation 7(2)(c) in respect of an appeal is the organization the membership of which includes the majority of employees holding the designation within the designation group to which the provisional promotion has been made.

"(4) In the event of dispute as to the appropriate organization to nominate a member of a Promotions Appeal Board the Commissioner shall determine which organization is the appropriate organization.

### "7. CONSTITUTION OF PROMOTIONS APPEAL BOARDS

"(1) The Commissioner may appoint such persons as he sees fit to be Chairmen of Promotions Appeal Boards.

"(2) A Promotions Appeal Board, in relation to an appeal against a provisional promotion, shall be constituted by -

(a) a Chairman;

(b) a person nominated by the Chief Executive Officer or prescribed authority concerned, as the case may be; and

(c) a person nominated by an organization that is, by virtue of regulation 6, the appropriate organization.

"(3) An employee shall not be nominated as a member of a Promotions Appeal Board in relation to a provisional promotion if the employee is the employee so provisionally promoted or has appealed against the provisional promotion.

### "8. MAJORITY DECISION

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

### "9. CENTRAL PROMOTIONS APPEAL BOARD

"(1) The Commissioner shall designate a Promotions Appeal Board as the Central Promotions Appeal Board.

"(2) For the purposes of section 36(4) of the Act, the Chairman of the Central Promotions Appeal Board shall determine who are the parties to a claim and which Board shall hear the claim.

### "10. PROTECTION OF CHAIRMAN AND MEMBERS

"An action or proceeding, civil or criminal, does not lie against the Chairman or members of a Promotions Appeal Board for or in respect of an act or thing done in good faith by the Chairman or members in the administration of these Regulations.

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### "11. PROCEDURE ON APPEAL

"(1) An appeal shall be made by letter or telegram posted or delivered to the office of the Central Promotions Appeal Board within the period that commences on the date on which the notification of the provisional promotion is published in the Gazette and ends at the close of business at that office 21 days after that date.

"(2) A letter or telegram referred to in sub-regulation (1) shall specify the ground of appeal.

"(3) Where an appeal from an employee or an officer of the Australian Public Service is received after the prescribed time for appeals, the Chairman of the Central Promotions Appeal Board shall refer the appeal to the Commissioner, and shall accept the appeal if the Commissioner is satisfied that the employee or officer did not have a reasonable opportunity of appealing within the time prescribed by sub-regulation (1).

### "12. CONDUCT OF INQUIRIES

"Subject to these Regulations, in the conduct of an inquiry by a Promotions Appeal Board -

- (a) the Board may inform itself in such manner as it thinks fit;
- (b) the Board shall determine the procedure to be followed;
- (c) the Board is not bound by the rules of evidence; and
- (d) the Board shall proceed without regard to legal forms and solemnities.

### "13. DETERMINATION OF APPEALS

"(1) Where the claims of all parties to an appeal or appeals are considered by one Promotions Appeal Board, that Promotions Appeal Board shall determine the appeal or appeals.

"(2) Where the Central Promotions Appeal Board and one or more other Promotions Appeal Boards have been established under section 37(1) of the Act, in respect of an appeal against a provisional promotion, each Promotions Appeal Board shall, after examining the claims of the party or parties referred to it, forward a report to the Central Promotions Appeal Board on that appeal.

"(3) The Central Promotions Appeal Board shall, after examining the claims of any party or parties referred to it under regulation 9(2) and the report or reports received from such other Board or Boards as are established under section 37(1) of the Act and after making such further inquiries as it considers necessary, determine the appeal or appeals."

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### 3. FURTHER AMENDMENTS

Regulations 2, 14 to 21 inclusive and 23 of the Public Service Regulations are amended by omitting "Ordinance" (wherever occurring) and substituting "Act".

### 4. SAVINGS

(1) A person appointed and holding office as a member or the Chairman of a Promotions Appeal Board before the commencement of these Regulations continues to hold that office as though he had been appointed to that office under the Public Service Regulations as amended by these Regulations.

(2) Notwithstanding regulation 2, Part II of the Public Service Regulations as in force immediately before the commencement of these Regulations continues in force in respect of an appeal instituted and not determined before the commencement of these Regulations.