NORTHERN TERRITORY OF AUSTRALIA

PUBLIC EMPLOYMENT (MOBILITY) ACT

As in force at 1 May 2016

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 2016

PUBLIC EMPLOYMENT (MOBILITY) ACT

An Act to enable mobility in employment between certain areas of public employment in the Territory without loss of accrued conditions of employment

1 Short title

This Act may be cited as the *Public Employment (Mobility) Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

conditions of employment, in relation to conditions that accrue to an employee by virtue of service with a public employer, means:

(a) recreation leave, long service leave, or sick leave;

(b) an allowance in the nature of a Northern Territory allowance (by whatever name called) or for living in or in a particular place in the Territory;

(c) an airfare entitlement or payment in lieu of an airfare entitlement; or

(d) automatic increments of salary or wages.

employee means a person who is an employee within the meaning of the *Public Sector Employment and Management Act*, a member of the Police Force, a person otherwise employed by the Territory, or a person employed in or by a body corporate (other than a local government council, the Northern Territory Land Corporation established under the *Northern Territory Land Corporation Act*, and the Conservation Land Corporation established under the *Parks and Wildlife Commission Act*) established by a law of the Territory, whether the employee, officer, member, or person was appointed or engaged (or is or was deemed under any Act, award,

determination, or other instrument of a legislative or administrative character to have been appointed or engaged) before or after the commencement of this Act, but does not include the following:

(a) a person employed on a casual or temporary basis or for a fixed term;

(b) a Local Court Judge;

(c) a Supreme Court Judge.

public employment means:

(a) employment within the Public Sector of the Northern Territory or the Police Force;

(b) any other employment by the Territory or in or by a body corporate (other than a local government council, the Northern Territory Land Corporation established under the *Northern Territory Land Corporation Act*, or the Conservation Land Corporation established under the *Parks and Wildlife Commission Act*) established by a law of the Territory; or

(c) employment within the Public Service of the Commonwealth or an authority of the Commonwealth where the Commonwealth or that authority granted an employee leave of absence without pay from that employment in order to take up public employment under paragraphs (a) or (b),

and ***public employer*** has a corresponding meaning.

transfer means the movement of an employee from the employment of one public employer to the employment of another public employer.

(2) The Minister may, by notice in the *Gazette*, declare a person, class, or category of persons to be a person, class, or category of persons to which this Act does, or does not, apply.

4 Date of commencement in public employment

(1) Subject to subsection (2), for the purpose of determining the length of service of a person in public employment the date upon which a person first commenced duty with a public employer is the date upon which that person commenced in public employment.

(2) Where a person has been employed by more than one public employer, the date on which that person first commenced duty in public employment is the earliest date on which that person commenced duty with a public employer if the period of service with

which, taken with the periods of service with subsequent public employers, is continuous.

5 Terms of employment on transfer

(1) An employee who applies for a transfer to a permanent vacancy with a public employer (other than the public employer by which the employee is currently employed), shall, for the purpose of determining the terms of employment which are to apply in relation to that application, be considered to be an employee of the public employer with which the vacancy exists.

(2) Where an employee transfers or is transferred to another public employer, and that public employer allows or is required to allow a right of appeal by an employee against the promotion of another employee, that right of appeal shall apply in respect of the transferred employee if the transfer constituted a promotion.

6 Accrued conditions of employment

(1) All conditions of employment that have accrued to an employee at the time the employee transfers or is transferred to the employment of another public employer shall accompany and be available to the employee following that transfer.

(2) All conditions of employment that accrue to an employee following a transfer shall accrue under terms applicable to employment with the new public employer.

7 Return to previous public employer

An employee who transfers from one public employer to another shall have no automatic right to return to the employment of the previous public employer.

8 Compulsory transferees

An employee to whom Part VI of the *Public Service Act* or Part VI of the *Teaching Service Act* applies shall retain such rights, if any, as are conferred upon the employee by those Acts notwithstanding that the employee may transfer from the Public Service or from the Northern Territory Teaching Service to other public employment.

9 Transitional provision in special case

(1) This section applies to a person who first commenced duty with a public employer (other than the Power and Water Authority established under the *Power and Water Authority Act* or the Darwin Institute of Technology established under the *Advanced Education and Darwin Institute of Technology Act*) between 1 August 1987

and 24 October 1988 (both days inclusive).

(2) Where a person to whom this section applies subsequently transfers to the Power and Water Authority or to the Darwin Institute of Technology or, on or after 1 January 1989, the University of the Northern Territory established under the *University of the Northern Territory Act*, then, for the purpose only of determining the conditions of employment specified in paragraphs (b) and (c) of the definition of that term in section 3(1), the date on which that person first commenced duty in public employment shall, notwithstanding subsection (1) and section 4(2), be deemed to be 25 October 1988.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Public Employment (Mobility) Act 1989* (Act No. 47, 1989)**

Assent date	20 September 1989
Commenced	1 November 1989 (*Gaz* G43, 1 November 1989, p 7)

***Local Government (Consequential Amendments) Act 1993* (Act No. 84, 1993)**

Assent date	31 December 1993
Commenced	1 June 1994 (s 2, s 2 *Local Government Act 1993* (Act No. 83, 1993) and *Gaz* S35, 20 May 1994)

***Statute Law Revision Act (No. 2) 1995* (Act No. 42, 1995)**

Assent date	13 October 1995
Commenced	13 October 1995

***Statute Law Revision Act (No. 2) 2004* (Act No. 54, 2004)**

Assent date	15 September 2004
Commenced	27 October 2004 (*Gaz* G43, 27 October 2004, p 3)

***Local Government (Consequential Amendments) Act 2008* (Act No. 28, 2008)**

Assent date	14 November 2008
Commenced	1 July 2008 (s 2)

***Local Government Amendment Act 2014* (Act No. 19, 2014)**

Assent date	2 June 2014
Commenced	s 16: 1 July 2014; s 18: 1 December 2014; rem: 2 June 2014 (s 2)

***Territory Insurance Office (Sale) Act 2014* (Act No. 41, 2014)**

Assent date	28 November 2014
Commenced	pt 6, divs 1 and 2: nc (exp without commencing); pt 6, div 3: 00:01hrs 1 January 2015 (*Gaz* S131, 19 December 2014, p 8); rem: 28 November 2014 (s 2)

Local Court (Related Amendments) Act 2016 **(Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

3 LIST OF AMENDMENTS

s 3 amd No. 84, 1993, s 6; No. 42, 1995, s 5; No. 54, 2004, s 7; No. 28, 2008, s 3; No. 19, 2014, s 26; No. 41, 2014, s 53; No. 8, 2016, s 45