

AP806389 [Pre-Reform AIR Consolidation]

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

AUSTRALIAN INDUSTRIAL REGISTRY LOOSE-LEAF CONSOLIDATION

NORTHERN TERRITORY PUBLIC SECTOR REDUNDANCY
Provisions Award 2001.

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Note: This award consolidates Northern Territory Public Sector Redeployment and Redundancy Provisions Award 1996 [PR902657 [AW806389] ppc 23Mar01]]

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AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996

Review of Awards pursuant to Item 51 of Part 2 of Schedule 5 of the
Workplace Relations and Other Legislation Amendment Act 1996
(C No. 00026 of 1998)

**NORTHERN TERRITORY PUBLIC SECTOR REDEPLOYMENT AND
REDUNDANCY PROVISIONS AWARD 1996**

(ODN C No. 80112 of 1996)

[Print N7648 [N0565]]

Various employees

Northern Territory

COMMISSIONER EAMES

MELBOURNE, 23 MARCH 2001

Award simplification.

ORDER

A. Further to the decision issued by the Commission on 23 March 2001, [PR902656] the above award is varied as follows:

By deleting all clauses, and inserting the following:

PART 1 - APPLICATION AND OPERATION OF AWARD

1. AWARD TITLE

This award will be known as the Northern Territory Public Sector Redundancy Provisions Award 2001.

2. ARRANGEMENT

This award is arranged as follows.

Part 1 – Application and operation of award

1. Award title
2. Arrangement
3. Anti-discrimination
4. Parties bound and application
5. Commencement date of award and period of operation
6. Relationship with other awards
7. Definitions

Part 2 - Employer and employees' duties, employment relationship and related arrangements

8. Notice of redundancy
9. Voluntary retrenchment
10. Notice of transfer or termination of employment
11. Leave and expenses to seek employment
12. Termination of employment or transfer

Part 3 - Wages and related matters

13. Payment of income
14. Calculation of income payments
15. Allowances

Part 4 - Leave of absence

16. Use of accumulated sick leave

Part 5 - Communication, consultation and dispute resolution

17. Facilitative provisions
18. Dispute settling procedures

3. ANTI-DISCRIMINATION

3.1 It is the intention of the respondents to this award to achieve the principal object in s.3(j) of the *Workplace Relations Act 1996* through respecting and valuing the diversity of the workforce by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

3.2 Accordingly, in fulfilling their obligations under the dispute avoidance and settling clause, the respondents must make every endeavour to ensure that neither the award provisions nor their operation are directly or indirectly discriminatory in their effects.

3.3 Nothing in this clause is taken to affect:

3.3.1 any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth or Northern Territory anti-discrimination legislation;

3.3.2 junior rates of pay, until 22 June 2000 or later date determined by the Commission in accordance with s.143(1E) of the *Workplace Relations Act 1996*;

3.3.3 an employee, employer or registered organisation, pursuing matters of discrimination in any State, Territory or federal jurisdiction, including by application to the Human Rights and Equal Opportunity Commission or the Northern Territory Anti-Discrimination Commissioner;

3.3.4 the exemptions in s.170CK(3) and (4) of the *Workplace Relations Act 1996*.

4. PARTIES BOUND AND APPLICATION

The parties bound by this award are:

4.1 The Commissioner for Public Employment for the Northern Territory; and

4.1.1 CPSU, the Community and Public Sector Union;

4.1.2 the Australian Nursing Federation;

4.1.3 the Transport Workers Union of Australia;

4.1.4 the Automotive Food, Metals, Engineering, Printing and Kindred Industries Union;

4.1.5 the Australian Liquor, Hospitality and Miscellaneous Workers Union;

4.1.6 the Communications Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia;

4.1.7 the Association of Professional Engineers, Scientists and Managers, Australia;

4.1.8 the Australian Education Union; and

4.1.9 the Maritime Union of Australia.

4.2 This award applies to:

4.2.1 employees who are members or eligible to be members of the above unions and who are

4.2.2 employees of agencies, prescribed authorities or units of administration of the Northern Territory Public Sector.

4.3 This award does not apply to those temporary employees employed under section 34 of the Act, unless otherwise agreed between the Commissioner and the relevant union.

5. COMMENCEMENT DATE OF AWARD AND PERIOD OF OPERATION

5.1 This award will come into operation on 23 March 2001 and remains in force for a period of twelve months.

6. RELATIONSHIP WITH OTHER AWARDS

6.1 This award supersedes the Northern Territory Public Sector Redeployment and Redundancy Provisions Award 1996, but no right, obligation or liability accrued or incurred under such previous award will be affected.

7. DEFINITIONS

7.1. **Act** means the *Public Sector Employment and Management Act* of the Northern Territory.

7.2 **Agency** means a Department or other unit of administration defined in section 3(1) of the Act.

7.3 **Chief Executive Officer** means a Chief Executive Officer defined in section 3(1) of the Act.

7.4 **Commissioner** means the Commissioner for Public Employment for the Northern Territory.

7.5 **Compulsory transferee** means an employee who was compulsorily transferred to the Northern Territory Public Service from:

7.5.1 the Commonwealth Public Service, or

7.5.2 the former Northern Territory Public Service

under the provisions of section 38 or 40 of Part VI of the *Public Service Act 1976*.

7.6 **Potentially surplus employee** means:

7.6.1 An employee who is in a class comprising a greater number of employees than is necessary for the efficient and economical working of the agency; or

7.6.2 an employee whose services cannot be effectively used because of technological or other changes in the work methods of the agency, or changes in the nature, extent or organisation of the functions of the agency.

7.7 **Service** means a period of continuous service with the Northern Territory Public Sector, and includes service as a compulsory transferee.

7.7.1 An employee who is classified as a voluntary transferee and becomes or is likely to become redundant from the date of effect of this award, will for all purposes of this award have their previous continuous service with the Commonwealth Government recognised. A voluntary transferee is an employee who was on leave without pay under the former Australian Public Service Regulation 61Q prior to October 1987 to work for the NT Public Service, having prior continuous service with the Commonwealth Government.

7.8 Suitable employment means employment agreed to be suitable by the Commissioner or the Chief Executive Officer of the employee's home agency and the union(s) having regard to the employee's:

7.8.1 skills/qualifications profile;

7.8.2 background and experience;

7.8.3 designation level;

7.8.4 salary level (the inclusion of allowances or loadings as salary, other than higher duties allowance is at the discretion of the Commissioner);

7.8.5 expressed desires in respect of alternative employment;

7.8.6 retraining requirements;

7.8.7 current work location.

7.9 Union means a trade union as defined in section 4 of the *Workplace Relations Act 1996* and which is a respondent to this award.

PART 2 - EMPLOYER AND EMPLOYEES' DUTIES, EMPLOYMENT RELATIONSHIP AND RELATED ARRANGEMENTS

8. NOTICE OF REDUNDANCY

8.1 Where the Commissioner decides that redeployment of any potentially surplus employee is not feasible:

8.1.1 an employee is entitled to 6 months formal notice that the employee is surplus to the requirements of the service; or

8.1.2 where an employee has twenty or more years service or is over the age of 45 years, the employee is entitled to twelve months formal notice that the employee is surplus to the requirements of the service.

8.2 A surplus employee cannot be given notice under this clause if:

8.2.1 the employee has not been invited to elect for retrenchment in accordance with clause 9 - Voluntary retrenchment; or

8.2.2 the employee has made an election for retrenchment and the Commissioner has refused to approve it.

9. VOLUNTARY RETRENCHMENT

- 9.1** Where an employee is unable to be placed in other suitable employment or retrained, the employee may be invited to elect for voluntary retrenchment in accordance with this clause and the agreed redeployment procedures.
- 9.2** Where the Commissioner approves an election for retrenchment under this clause, the period of notice is four weeks subject to 9.3. The period of notice for an employee over the age of 45 years is 5 weeks.
- 9.3** The employee may be retrenched at any time within the period of notice under 9.2 where:
- 9.3.1** the Commissioner so directs or the employee so requests; and
 - 9.3.2** the employee is entitled to receive payment in lieu of salary for the unexpired portion of the notice period.
- 9.4** An employee retrenched in accordance with this clause is entitled to be paid a sum equal to two weeks salary including, where applicable, Northern Territory allowance:
- 9.4.1** for each completed year of continuous service; and
 - 9.4.2** a pro rata payment for the months of continuous service completed since the last year of continuous service.

Provided that:

- 9.4.2(a)** the minimum payable under this subclause is four weeks salary and the maximum is 48 weeks salary;
 - 9.4.2(b)** the sum payable to an employee under this subclause must not exceed the salary that would be payable were the employee to continue in their employment until the maximum retirement age for the class of employees to which the employee belongs.
- 9.5** For the purpose of calculating payment under 9.4:
- 9.5.1** where an employee has been acting in a higher designation for a continuous period of at least twelve months immediately prior to the date of notification that the employee is a surplus employee, the salary level is the employee's salary in their higher designation at the date of notification;
 - 9.5.2** where an employee has been paid a loading for shift work for 50% or more of the twelve months immediately preceding the date of notification, the weekly average amount of shift loading received during that period will be counted as part of "weeks salary";

- 9.5.3** the inclusion of other allowances which are in the nature of salary will be at the discretion of the Commissioner.
- 9.6** All recreation leave, long service leave and leave loading entitlements, including pro rata entitlements, must be paid in full.
- 9.7** An employee is entitled to:
- 9.7.1** all reasonable removal and relocation expenses; or
- 9.7.2** the use of or payment equivalent to one accrued leave airfare allowance entitlement for the employee and the employee's recognised dependents.
- 9.8** The entitlement at 9.7 should be used within 90 days after the date of retrenchment unless otherwise approved by the Commissioner.

10. NOTICE OF TRANSFER OR TERMINATION OF EMPLOYMENT

- 10.1** An employee must be given four weeks formal notice that the employee will be transferred to a lower salary or employment will be terminated when:
- 10.1.2** the relevant period of notice in clause 8 - Notice of redundancy has expired and the employee cannot be placed in other suitable employment;
- 10.1.3** the relevant period of notice in clause 8 - Notice of redundancy has expired and the training for alternative employment cannot be arranged.
- 10.2** An employee over the age of 45 years is entitled to five weeks formal notice that the employee will be transferred to a lower salary or will be terminated from employment.

11. LEAVE AND EXPENSES TO SEEK EMPLOYMENT

- 11.1** For the purpose of attending employment interviews, an employee who has received notice in accordance with clauses 8 - Notice of redundancy or 10 - Notice of transfer or termination of employment is entitled to:
- 11.1.1** reasonable leave with full pay; and
- 11.1.2** reasonable travelling and incidental expenses necessary to attend an interview where those expenses are not met by the prospective employer.
- 11.2** An employee is entitled to all reasonable expenses associated with moving his or her household to a new location if, in the opinion of the Commissioner, the transfer is necessary to enable the employee to take up alternative employment.

12. ELECTION TO TERMINATE EMPLOYMENT OR BE TRANSFERRED

- 12.1** With the approval of the Commissioner, an employee who has received notice in accordance with clauses 8 - Notice of redundancy or 10 - Notice of transfer or termination of employment may elect to terminate employment or be transferred before the expiry date of the notice period. The date elected then becomes the date of termination of employment or transfer for the purposes of this award.
- 12.2** Where the Commissioner approves an election to terminate employment, the employee will be entitled to receive payment in lieu of salary for the unexpired portion of the notice period. This payment includes Northern Territory allowance where it is applicable.
- 12.3** An employee who has declined an invitation to elect for voluntary retrenchment prior to clauses 8 - Notice of redundancy and 10 - Notice of transfer or termination of employment being invoked, is not entitled to receive a greater payment under clause 12.2 than the employee would have been entitled to receive had the employee elected to be voluntarily retrenched.

PART 3 - WAGES AND RELATED MATTERS

13. PAYMENT OF INCOME MAINTENANCE

- 13.1** An employee will be able to receive maintenance of income payments where their employment is terminated or where they have been transferred to a lower designation and salary in accordance with clause 12 - Election to terminate employment or be transferred.
- 13.2** Where an employee's employment is terminated during either of the notice periods pursuant to clause 12 – Election to terminate employment or be transferred, he or she is entitled to receive maintenance of income payments, if any, for the balance of the relevant notice period; and if the employee's circumstances so require.
- 13.3** Where an employee becomes unemployed, the employee will not be eligible to receive maintenance of income payments if they refuse offers of suitable employment or suitable training.
- 13.4** An employee will not be eligible to receive maintenance of income payments after the employee has reached the maximum retiring age applicable to their class of employees, or in any other case the employee reaches the age of 65 years.

14. CALCULATION OF INCOME MAINTENANCE PAYMENTS

14.1 Income maintenance payments are calculated as follows:

14.1.1 where an employee is unemployed, an amount equivalent to his or her salary level at the date of termination of employment less the amount, if any, of unemployment benefits;

14.1.2 where an employee obtains employment, the amount, if any, necessary to bring his or her salary at the lower level up to the salary level at the date of the transfer or termination of employment.

14.2 Where an employee has been acting in a higher designation for a continuous period of twelve months immediately prior to the date which the employee received notice under clause 8 -Notice of redundancy, the employee's salary, for the purposes of this clause, is that received at the higher designation at the date of receiving notice.

14.3 The inclusion of allowances or loadings as salary, other than higher duties allowance, is at the discretion of the Commissioner.

15. ALLOWANCES

15.1 Compensation for losses etc.

15.1.1 An employee who is eligible for the payment of maintenance of income is entitled to receive compensation for all other identifiable and quantifiable disabilities, losses and expenses experienced or incurred by reason of his or her transfer or termination of employment which in the opinion of the Commissioner were brought about by the termination of employment or transfer.

PART 4- LEAVE OF ABSENCE

16. USE OF ACCUMULATED SICK LEAVE

16.1 The periods of notice under clauses 8 - Notice of redundancy and 10 - Notice of transfer or termination of employment of this award will be extended by any periods of certificated sick leave taken during such periods.

16.2 An employee who, at the date of termination or transfer, has accumulated sick leave credits is entitled to receive maintenance of income payments in respect of loss of income through sickness until such time as those accumulated sick leave credits have been exhausted.

Provided that:

16.2.1 the rate of payment will be as set out in clause 14 - Calculation of income maintenance payments of this award;

- 16.2.2** the entitlement to maintenance of income payments under this subclause:
- 16.2.2(a)** will not exceed six months leave credits;
 - 16.2.2(b)** will not apply to uncertificated absences;
 - 16.2.2(c)** will not extend beyond the maximum retirement age applicable to the class of employees to which the employee belongs, or in any other case attains the age of 65 years.
- 16.2.3** the period for which maintenance of income payments are paid under clause 13- Payment of income maintenance of this award will be extended by the period or periods for which payments are made under this subclause;
- 16.2.4** access to sick leave credits is available only during the period of income maintenance.

PART 5 - COMMUNICATION, CONSULTATION AND DISPUTE RESOLUTION

17. FACILITATIVE PROVISIONS

- 17.1** Where the Union, or other employee nominated representative, the employee, and the Commissioner agree, provisions may be applied to a potentially surplus employee which are in addition or in substitution for any or all of the provisions prescribed in this Award.

18. DISPUTE SETTLING PROCEDURES

- 18.1** Every endeavour must be made to settle a dispute arising in relation to this award amicably, by direct consultation and negotiation between the parties to this award.
- 18.2** To facilitate the settlement of any dispute, the following procedures will apply:
- 18.2.1** the employee must discuss the matter affecting them with a senior Human Resource Management representative of their agency;
 - 18.2.2** if the matters are not resolved at this level within 48 hours, the employee may discuss the matter with their union or other employee nominated representative at a time suitable to the senior Human Resource Management representative. Permission for such a discussion must not be unreasonably withheld;
 - 18.2.3** if negotiations between management and the union or other employee nominated representative do not resolve the dispute within 24 hours, either party is at liberty to refer the matter to the Commissioner or to his or her nominee. That person must determine the matter within 24 hours.

18.2.4 work must continue during the period of negotiation, discussion and consultation except where the work is considered to be unsafe. Where work is considered to be unsafe, management must immediately consult to determine whether safety regulations are being observed;

18.2.5 the time limits set out above are cumulative and may be extended by agreement;

18.3 Despite the above, it is open to any party or any employee to have the matter referred to the Australian Industrial Relations Commission for resolution.

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