

EMPLOYMENT INSTRUCTION NUMBER 1

ADVERTISING, SELECTION, APPOINTMENT, TRANSFER AND PROMOTION

INDEX

1.	Scope and Purpose	Page 2
2.	Legislative Basis	Page 2
3.	Other Sources of Information	Page 3
4.	Reporting Requirements	Page 3
5.	Agency Action Required	Page 3
5A	Eligibility for Employment	Page 3
6.	Permanent Employment	Page 3
7.	Temporary Employment	Page 4
	7.1 Types of Temporary Employment	
	7.2 Standard Temporary Employment	
	7.3 Non-Standard Temporary Employment	
	7.4 Renewal of Temporary Employment	
	7.5 Temporary Employment - Consultation With Unions	
	7.6 Executive Contract of Employment	
8.	Other Types of Contracts Not Covered By the Act	Page 6
9.	Advertising Vacancies	Page 6
	9.1 General	
	9.2 All Vacancies Over 6 Months	
	9.3 All Vacancies for 6 Months or Less	
	9.4 Multi-Designation Advertising	
	9.5 Media Advertising	
10.	Selection	Page 8
	10.1 Principles and Guidelines	
	10.2 Consideration of Redeployees	
	10.3 Base Grade Vacancies	

11.	Appointment	Page 9
12.	Transfers	Page 9
	12.1 General	
	12.2 Section 35 Transfers	
	12.3 Appeal and Review Mechanisms	
13.	Promotion	Page 10
	13.1 General	
	13.2 Payment on Promotion	
	13.3 Salary Level on Promotion	
14.	Transfers under the <i>Public Employment (Mobility) Act 1989</i>	Page 11
15.	Job Evaluation System	Page 11
16.	Further Reading	Page 11

1. SCOPE AND PURPOSE

This Employment Instruction covers the main steps involved in filling a vacancy. These main steps include:

- advertising;
- selection and consideration of redeployees; and
- appointment, promotion and transfer.

The purpose of this Employment Instruction is to outline the principal procedures to be followed when filling temporary or permanent vacancies, together with the various types of employment arrangements which Chief Executive Officers are able to offer.

2. LEGISLATIVE BASIS

The following sections of the *Public Sector Employment and Management Act* (the Act) are relevant:

- Section 3(2) provides that an appointment, promotion or transfer should be on the basis of, and only on the basis of, the capacity of the person to perform particular duties, having regard to the person's knowledge, skills, qualifications and experience and the potential for future development of the person in employment in the Public Sector;
- Section 29 authorises a Chief Executive Officer to appoint a person, or promote or transfer an employee;
- Section 30 details the legislative procedures required to fill a vacancy;
- Section 31 enables the Commissioner to determine the qualifications and other requirements for appointment, promotion or transfer; and

- Section 34 enables the Commissioner to determine which jobs may be performed on a temporary basis or for a fixed period.

3. OTHER SOURCES OF INFORMATION

- Relevant Northern Territory Public Sector industrial awards, certified agreements and Arbitral Tribunal determinations.
- The *Public Employment (Mobility) Act* details the legislative provisions applicable to employee transfers between public employers.
- The *Anti-Discrimination Act* in general and in particular section 25 which prohibits discrimination in advertising.

4. REPORTING REQUIREMENTS

Section 28(2)(c) of the Act requires the Chief Executive Officer to report annually on the number of employees of each designation and any variation in numbers since the last report.

5. AGENCY ACTION REQUIRED

Chief Executive Officers shall develop procedures for the recruitment and selection of employees which are consistent with the Act, Regulations, By-Laws, Employment Instructions, relevant awards and determinations.

Such procedures, as a minimum, must demonstrate that selection is made in accordance with the merit principle, including equal opportunity provisions.

In developing procedures, Chief Executive Officers are to take account of the guidelines set out in the "Merit Selection Guide" (March 2000).

5A. ELIGIBILITY FOR EMPLOYMENT

A person is not eligible for permanent employment in the Public Sector unless the person:

- is an Australian citizen or has been granted permanent resident status;
- has produced evidence of age to the satisfaction of the Chief Executive Officer;
- has produced documentary evidence of change of name where name currently used differs from that shown on other documentation;
- meets any necessary qualification or other requirements for the job
- meets any medical fitness requirements for the job.

For any temporary employment, the employee must have an appropriate visa to enable employment in Australia.

A former employee who has accepted a voluntary retrenchment in accordance with the Redeployment and Redundancy Provisions is not eligible for employment in the Public Sector for a period of two years from the date of termination, except with the approval of the Commissioner for Public Employment. (Section 5A inserted May 2001)

6. PERMANENT EMPLOYMENT

Permanent employment applies where there is no end date to the employment and the appointment cannot be terminated except in accordance with the Act. Permanent employment may be either on a full-time or part-time basis. Conditions applicable to part-time employment are specified in Employment Instruction Number 14 - Part-Time Employment.

Fixed Period Arrangements are available to permanent employees on terms and conditions determined by the Commissioner.

7. TEMPORARY EMPLOYMENT

Temporary employment is for a specified period of time and is not on a permanent basis. Temporary employment may be either on a full-time, part-time or casual basis. A temporary employment contract may be terminated by either party in accordance with the provisions of the contract.

With the exceptions detailed in the following paragraphs and any limitations imposed by the Act or other legislation, a Chief Executive Officer may employ a person in whatever type of employment he or she thinks fit for the efficient operation of the agency.

7.1 Types of Temporary Employment

A temporary employee may be employed on the basis of:

Full-Time or Part-Time - Temporary employment may be on a full-time or part-time basis. Part-time employment must be in accordance with the provisions of the relevant award, certified agreement, Commissioner's determination or Employment Instruction Number 14 - Part-Time Employment.

Casual Employment - Chief Executive Officers may employ a person on a casual basis in accordance with the provisions of the relevant award, certified agreement or Commissioner's determination.

7.2 Standard Temporary Employment

Where the contract used to employ a temporary employee is the relevant standard contract, as determined by the Commissioner, with no amendments, the Chief Executive Officer may approve the employment.

7.3 Non-Standard Temporary Employment

Contracts which do not conform to the standard contract are subject to the Commissioner's determination and approval.

7.4 Renewal of Temporary Employment

- (i) Unless prior approval has been granted by the Commissioner, Chief Executive Officers may only renew a period of temporary employment on one occasion. Any such renewal must not exceed the original period of temporary employment. For any further renewal, the Commissioner's approval must be obtained under section 34(5) of the Act.
- (ii) Subject to the limitations set out below, a Chief Executive Officer may renew periods of temporary employment on subsequent occasions, without the written approval of the Commissioner under section 34(5) of the Act, for the following designations:
 - Administrative Officer 1 and 2
 - Physical 1, 2, 3 and 4
 - Professional 1
 - Technical 1
 - Agency specific designations as approved by the Commissioner.

Where temporary employment for one of the above designations has been renewed on more than one occasion and the length of time the temporary employee has been employed within an agency is two years, the Chief Executive Officer should carefully consider the status of that employee.

- (iii) For the duration of a traineeship, a Chief Executive Officer may renew a period of temporary employment, without the written approval of the Commissioner under section 34(5) of the Act, for the following traineeship designations:
 - Trainee Technical Officer
 - Trainee Library Technician
 - Trainee Professional Group
 - Trainee (Australian Traineeship Scheme) Office Clerical
 - Trainee (Australian Traineeship Scheme) Office Technology
 - Other traineeship designations as approved by the Commissioner.

7.5 Temporary Employment - Consultation With Unions

Where a permanent vacancy is to be filled on a temporary basis (with the exception of vacancies to be filled on an Executive Contract of Employment or pending agency action to permanently fill the vacancy), the relevant union must be advised:

- of the proposal;
- of the period of the proposed temporary employment;
- whether the terms and conditions of the contract are standard or non-standard; and
- the reason for proposing temporary employment rather than permanent appointment, transfer or promotion.

In such cases, any comment by the union must be made within 48 hours. The decision to fill a job on a temporary basis rests with the Chief Executive Officer, after considering any submissions from the union.

Details regarding terms and conditions of individual contracts and personal and professional details of proposed employees are confidential and therefore not made available to the union.

7.6 Executive Contract of Employment

Appointments, promotions and transfers to perform duties at certain designations, as determined by the Commissioner, are effected through separate Executive Contracts of Employment.

8. OTHER TYPES OF CONTRACTS NOT COVERED BY THE ACT

Persons entering into "Contracts for Service" are not employees and are not covered by the Act. An example of the use of this type of contract would be the engagement of a consultant, contractors, cleaning services, etc. "Contracts for Service" are prepared by solicitors following a detailed briefing by the agency requiring the service.

9. ADVERTISING VACANCIES

9.1. General

Under section 25 of the *Anti-Discrimination Act*, it is unlawful for an employer to advertise job vacancies in a way that is discriminatory.

Prior to advertising, agencies should ensure the job has a current and valid evaluation in accordance with the Job Evaluation System (or other system - see section 15 of this Employment Instruction).

Specifications for advertising vacancies are contained in the "Recruitment Advertising Policy and Procedures" (March 2000) published by the Office of the Commissioner for Public Employment.

9.2 All Vacancies Over 6 Months

- (i) All permanent and temporary vacancies expected to extend beyond six months:
 - (a) must be advertised on the Northern Territory Government job vacancies internet/intranet sites, by broadcast facsimile to identified workplaces and in Saturday's edition of the Northern Territory News (in exceptional circumstances the Commissioner may waive this requirement under section 30(1)(b) of the Act); and
 - (b) selection outcomes must be notified in writing to applicants, with details of any appeal rights under section 55 of the Act. Following the finalisation of the appeals process, the selection will be notified on the Northern Territory Government job vacancies intranet site

and by broadcast facsimile to identified workplaces (unless directed otherwise by the Commissioner under section 30(2) of the Act).

- (ii) In cases where the Commissioner approves a selection to be made without advertising the vacancy under section 30(1)(b) of the Act, the selection will be notified, with full vacancy details, on the Northern Territory Government job vacancies intranet site and by broadcast facsimile to identified workplaces (unless directed otherwise by the Commissioner under section 30(2) of the Act). It is the agency's responsibility to ensure correct notification details are provided.

9.3 All Vacancies for 6 Months or Less

- (i) Simultaneous with any advertising and prior to any filling, all vacancies which are expected to be for 6 months or less must be submitted to the Redeployment Unit at the Office of the Commissioner for Public Employment, for referral of any redeployees.
- (ii) Ideally, all temporary vacancies which are expected to be vacant for between three and six months should be advertised in accordance with 9.2(i)(a), but, where this is not feasible, consideration should be given to advertising the vacancy by way of a Temporary Vacancy Circular or on the Northern Territory Government job vacancies intranet site. The filling of these vacancies is not subject to appeal under section 55 of the Act and notification of the selection in accordance with 9.2(i)(b) is not required.
- (iii) Temporary vacancies for three months or less may be filled without advertisement. The filling of these vacancies is not subject to appeal under section 55 of the Act and notification of the selection in accordance with 9.2(i)(b) is not required.

9.4 Multi-designation Advertising

In special circumstances a job may be advertised at more than one level within a classification stream. Multi-designation advertising may be utilised where a job is considered difficult to fill at the evaluated level and/or where the nature of the job is such that partial performance of the duties is considered essential. The decision to utilise multi-designation advertising is at the discretion of the Chief Executive Officer.

All designations to be advertised should be evaluated in accordance with the Job Evaluation System (or other system – see section 15 of this Employment Instruction), together with the preparation of separate selection criteria and job descriptions for each designation.

9.5 Media Advertising

Apart from advertising vacancies in Saturday's edition of the Northern Territory News, vacancies may be advertised in other appropriate media, where the Chief Executive Officer considers this is necessary. All recruitment advertising is placed through the Department of Corporate and Information Services.

10. SELECTION

10.1 Principles and Guidelines

Selection to a vacancy shall be in accordance with the merit principle as prescribed in section 3(2) of the Act. The merit principle does not apply to a transfer effected under section 35 of the Act.

All employees involved in the selection process should refer to agency selection procedures and to the “Merit Selection Guide”(March 2000) published by the Office of the Commissioner for Public Employment. The “Merit Selection Guide” provides the principles and guidelines for the filling of vacancies in the Northern Territory Public Sector.

10.2 Consideration of Redeployees

When selecting a candidate to fill a vacancy, priority must be given in the first instance to redeployees. Redeployees are to be assessed for their suitability to perform the duties of the vacancy with a reasonable period of training. The merit principle operates between redeployees.

If all available redeployees are found unsuitable, the selection panel’s report in respect of those redeployees must be forwarded to the Office of the Commissioner for Public Employment prior to any further recruitment action.

Procedures to be observed and further information regarding the assessment of redeployees are contained in the “Agreement on Redeployment Procedures” issued by the Office of the Commissioner for Public Employment.

10.3 Base Grade Vacancies

Base grade for this purpose refers to any job which falls into the following designations:

- Administrative Officer 1
- Technical 1
- Physical 1, 2 and 3
- Service Worker 1 (PAWA)

Where a base grade vacancy cannot be filled by a redeployee, agencies should confirm that the vacancy is not subject to a targeted employment program.

The NTPS implements special employment strategies such as the Year 12 School Leaver Program. Further advice is available from the Office of the Commissioner for Public Employment.

11. APPOINTMENT

The engagement of a person who is not an employee of the Public Sector is an appointment.

A period of probation is normally applicable to permanent appointments. Requirements for the probationary process are specified in Employment Instruction Number 2 - Probation.

Appointments are not subject to appeal under section 55 of the Act.

All permanent appointments and temporary appointments beyond 6 months must be notified in accordance with 9.2(i)(b), unless otherwise approved by the Commissioner.

A person is not eligible for permanent employment in the Public Sector unless he or she fulfils the requirements outlined in section 5A of this Employment Instruction.

An existing permanent or temporary employee must be transferred or promoted within the Public Sector rather than resigning and being re-appointed.

The effective date of appointment is the date of commencing duty with the Public Sector and is the date from which salary is paid.

Upon appointment, employees must be provided with a copy of the Principles of Public Administration and Management, Human Resource Management and Conduct, and the Code of Conduct.

12. TRANSFERS

12.1 General

- (a) The transfer of an employee under section 29 of the Act to fill a vacancy advertised under section 30 of the Act, must be notified as a selection in accordance with 9.2(i)(b), unless the Commissioner directs otherwise.
- (b) Transfers effected under any other section of the Act are not to be notified in accordance with 9.2(i)(b).

12.2 Section 35 Transfers

Section 35 of the Act reflects the need for Chief Executive Officers to deploy staff according to operational requirements, including transfer between localities. Such transfers may either be for a fixed period or on a permanent basis.

Section 35 of the Act is not to be used in lieu of other identified processes under the Act, such as inability to discharge duties or disciplinary provisions.

Chief Executive Officers should have regard to the suitability of the employee concerned in terms of skills, knowledge and experience to carry out the functions of the job to which the employee is being transferred. Chief Executive Officers should also have regard to the personal and family circumstances of the employee before effecting a transfer and should therefore seek comment from the employee concerning the proposed transfer.

Transfers effected under section 35 of the Act are not to be notified in accordance with 9.2(i)(b).

12.3 Appeal and Review Mechanisms

Employees aggrieved by actions taken under section 35 of the Act may appeal to the Commissioner under section 59 (see also Employment Instruction Number 8 - Management of Grievances). Section 35(6) of the Act provides that the employee shall not refuse to commence the duties to which the employee has been transferred while a review or appeal is conducted.

13. PROMOTION

13.1 General

The promotion of an employee under section 29 of the Act to fill a vacancy advertised under section 30 of the Act, must be notified in writing to applicants, with details of any appeal rights under section 55 of the Act. Following the finalisation of the appeals process, the promotion will be notified as a selection in accordance with 9.2(i)(b).

In accordance with Regulation 5(a) of the Public Sector Employment and Management Regulations, promotions of employees to Executive Contract Officer designations are not subject to appeal.

Determination of an appeal under section 56 of the Act is to be notified as directed by the Promotions Appeal Board.

13.2 Payment On Promotion

The date of effect for payment of salary on promotion shall be the date the employee commences performing the duties of the new designation. Employees who have gained a promotion should be released to perform the duties of the new designation no later than two weeks after confirmation of the promotion by the Chief Executive Officer.

13.3 Salary Level On Promotion

The salary to be paid on promotion will generally be the base salary point of the designation to which the employee is promoted. Some exceptions to this may occur when:

- (i) an award provision states otherwise;
- (ii) the promotion is across classification streams; or
- (iii) the employee has performed duties at the higher designation on a temporary basis.

14. TRANSFERS UNDER THE PUBLIC EMPLOYMENT (MOBILITY) ACT

The *Public Employment (Mobility) Act* allows a permanent employee of a recognised public employer to transfer his/her accrued conditions of employment (within the meaning of that Act) to another recognised public employer where that transfer is on a permanent basis.

15. JOB EVALUATION SYSTEM

The Job Evaluation System (JES) is the mechanism for determining the work value of jobs in the Public Sector.

The JES applies to the following classification streams:

- Administrative Officer
- Professional
- Technical
- Executive Teacher

Designations in other classification streams must be assessed through reference to their respective 'Position Classification Guidelines', 'Definitions' and/or award. Some designations are subject to progression arrangements.

16. FURTHER READING

This section includes a number of readings related to recruitment and promotion. These are not intended to be exhaustive and may be updated from time to time, and are available at www.nt.gov.au/ocpe.

- The "Merit Selection Guide" (March 2000) published by the Office of the Commissioner for Public Employment.
- Determination No.3 of 1999 specifies the educational qualifications or other requirements for appointment, transfer and promotion to certain designations within the Public Sector.

- “Recruitment Advertising Policy and Procedures” (March 2000) published by the Office of the Commissioner for Public Employment provides specifications for advertising vacancies and notifying selections.
- The “Agreement on Redeployment Procedures” (May 1996) sets out the procedures for the redeployment of employees declared potentially surplus under section 41 of the Act, subject to any changes arising from certified agreements.
- The “Job Evaluation System Information Booklet” (January 1998) provides a simple explanation of the Job Evaluation System and its operation within the Public Sector.
- Determination No. 5 of 1999 specifies the requirements for Job Descriptions in the Northern Territory Public Sector.
- The “Human Resource Management and Development Information Series” as issued from time to time. The series offers practical advice for managers and employees on a variety of subjects.
- Northern Territory Public Sector Aboriginal Employment and Career Development Strategy.
- Other guidelines and instructions as issued by the Commissioner from time to time.
- Internal agency policies and procedures.

D J HAWKES
COMMISSIONER FOR PUBLIC EMPLOYMENT

12 April 2000