

PART 6 - COMPULSORY TRANSFEREES

By-law 45 - General

EXTENT OF APPLICATION

45. (1) The By-laws in this Part shall only apply to an employee who was compulsorily transferred to:
- a) The Northern Territory Public Service from -
 - (i) the Commonwealth Public Service, or
 - (ii) the former Northern Territory Public Service,under the provisions of section 38 or 40 of Part VI of the Public Service Act 1976, or
 - b) to the Northern Territory Teaching Service from the Commonwealth Teaching Service
- under the provisions of section 54 of Part IV of the Teaching Service Act 1981.
45. (2) This Part is to be read in conjunction with other relevant By-laws.

EXCLUSIONS FROM APPLICATION OF THIS PART

45. (3) The By-laws in this Part do not apply in respect of an employee who -
- a) voluntarily transferred to the Northern Territory Public Service, or the Northern Territory Teaching Service; or
 - b) was appointed, promoted or transferred to the Northern Territory Public Service from the Commonwealth Public Service or to the Northern Territory Teaching Service from the Commonwealth Teaching Service as a result of normal recruitment processes; or
 - c) was granted leave without pay from the Commonwealth Public Service to undertake employment with the Northern Territory Public Service.

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By-law 46 - Recreation Leave

ACCRUAL OF RECREATION LEAVE

- 46. (1) Except in the case of an employee to whom clause (2) applies, a compulsorily transferred employee may accumulate 3 years recreation leave credit.
- 46. (2) An employee stationed in Alice Springs, (including Amoonguna and Bond Springs), Finke, Jay Creek (Iwupataka) and Maryvale, may accumulate a maximum of 2 years recreation leave credit.

By-law 47 - Air Fares

ENTITLEMENT

- 47. (1) A Chief Executive Officer may, subject to this By-law, grant an employee who is permanently stationed in the Northern Territory and who travels away from the Northern Territory during a period of paid leave, an air fare to the nearest capital city, in relation to each period of 2 years service.
- 47. (2) A female compulsory transferee shall be entitled to the assessment of her entitlement and grant of fares under the provisions of By-law 33, and this By-law shall not apply.
- 47. (3) A fare entitlement under this By-law may be approved as an economy air fare, or at the employee's option, as kilometre allowance in conjunction with travel by surface transport.
- 47. (4) An employee may accumulate a maximum of 3 air fare entitlements accrued in accordance with clause (1).

ELIGIBILITY

- 47. (5) A married male employee shall be entitled to payment of leave air fares for his wife, provided that she is not employed by the Commonwealth Public Service, an authority of the Commonwealth Government, the Northern Territory Public Sector or a prescribed authority (except as provided in clause (6)), and children under the age of 18 years, who reside with him.
- 47. (6) A married male employee shall be entitled to payment of leave air fares for his wife who was employed by the Northern Territory Public Service on or after 1 August 1987 and who, consequently, is not eligible for leave air fares in respect of her own employment.
- 47. (7) Unmarried employees to whom clause (10) or (11) does not apply, shall be entitled to leave air fares for themselves only.

RECOGNITION OF DE FACTO RELATIONSHIP

47. (8) For the purpose of this By-law, a de facto relationship which has been in existence for at least 6 months, shall be deemed to be a marriage.
47. (9) Claims for leave air fares in respect of dependents because of a de facto relationship cannot be accepted until the relationship has been in existence for at least 6 months and any entitlement cannot be approved with effect prior to the date of the statutory declaration in which the relationship was declared or the end of the 6 month period, whichever is the later.

ELIGIBILITY IN RESPECT OF CHILDREN

47. (10) An employee who is maintaining dependent children under the age of 18 years who reside with the employee, and who are not eligible for leave air fares from any other source, shall be entitled to leave air fares in respect of those children.
47. (11) An employee who maintains a dependent child who is -
- (a) over the age of 18 years;
 - (b) residing with the employee; and
 - (c) certified by a duly qualified medical practitioner as being a permanent invalid,

shall be entitled to leave air fares in respect of that invalid child as if that child was under the age of 18 years provided that the employee has, in all other respects, an entitlement under this By-law.

NEAREST CAPITAL CITY

47. (12) For the purposes of this By-law, the nearest capital city is:
- (a) for Darwin - Brisbane, Sydney, Melbourne, Adelaide or Perth;
 - (b) for Alice Springs - Brisbane (via Mt Isa), Sydney, Melbourne, Adelaide or Perth (direct flight);
 - (c) for Katherine and Tennant Creek - Sydney, Melbourne or Adelaide;
 - (d) for Nhulunbuy - Brisbane or Sydney (via Mt Isa or Cairns), Melbourne (via Brisbane or Adelaide), Adelaide or Perth (via Darwin).
47. (13) Employees stationed at Katherine, Tennant Creek or Alice Springs who travel to Darwin at their own expense may be granted leave air fares from Darwin to Perth in lieu of the normal entitlement applying to those locations.

MAXIMUM FARE ENTITLEMENT

- 47. (14) For travel by air, the maximum fare entitlement is the return economy class air fare from the employee's head station to the nearest capital city as defined.
- 47. (15) Employees have no entitlement to leave air fares for travel to Canberra or Hobart except as allowed in clauses (16) or (17).
- 47. (16) Where travel is to a destination other than the nearest capital city but travel is through a capital city, the maximum entitlement is the return economy class air fare from the employee's head station to that capital city.
- 47. (17) Where travel is to a destination other than the nearest capital city and travel is not through a capital city, the maximum entitlement is the lesser of the return economy class air fare from the employee's head station to Adelaide or the destination.
- 47. (18) Where travel is undertaken by any means other than by air, the maximum entitlement is the lesser of the return economy class air fare from the employee's head station to Adelaide, the cost of travel or kilometre allowance under By-law 34.

OVERSEAS TRAVEL

- 47. (19) Where an employee chooses to apply the value of a fare towards overseas travel, the maximum fare payable shall be the lesser of the entitlement calculated in accordance with clause (20), or the actual cost of the overseas fare or the overseas fare package as appropriate.
- 47. (20) The fare entitlement in respect of travel overseas depends upon the port of departure from, and re-entry to, Australia in accordance with the following:
 - (a) departing from nearest capital city -
maximum fare entitlement in accordance with clause (14);
 - (b) departing from other than the nearest capital city -
maximum fare entitlement in accordance with clause (16) or (17), as appropriate;
 - (c) departing from Darwin -
maximum fare entitlement of the return economy class air fare from the employee's head station to Adelaide, except that employees stationed in Alice Springs who travel to Darwin at their own expense for the purpose of departing on overseas travel from Darwin, shall be granted a maximum fare entitlement of the return economy class air fare from Darwin to Adelaide.

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FARE ON CESSATION OF EMPLOYMENT

47. (21) An employee who resigns, retires or is retired and who, at that time, has an unused leave air fare accrued under this By-law may be granted a one way economy class air fare (and for dependents if applicable) from the employee's head station to the nearest capital city in accordance with clause (12).

FARE VALUE

47. (22) All air fare entitlements provided in this By-law are to be calculated in accordance with the economy air fares charged by Qantas Australian for the specific journey.

AUTOMATIC CASH PAYMENT OF AIR FARE ACCRUED ON OR AFTER 2 DECEMBER 1995

47. (23) Notwithstanding this By-law, an air fare which accrues on or after 2 December 1995 may be used in accordance with the cash payment provisions of By-law 33.

By-law 48 - Travelling Time

ENTITLEMENT

48. (1) Where an employee utilises an air fare in accordance with By-law 47 and travel is undertaken by surface transport (ie bus, train, private vehicle etc), travelling time in accordance with Appendix A of Part 7 shall be granted to the employee for the forward and return journeys.
48. (2) Travelling time is to be added to the beginning and the end of the period of leave during which the travel is undertaken and shall include weekends and public holidays.
- 48 (3) This By-law shall not apply to an employee employed in a teaching capacity as defined.

By-law 49 - Northern Territory Allowance

ELIGIBILITY APPLYING ON AND FROM 1 AUGUST 1987

49. (1) The Public Employment (Modification of Terms and Conditions of Employment) Act 1987 amended the legislative conditions applying to compulsory transferees, to apply the full conditions of relevant Northern Territory Allowance By-law set out in By-law 26 of Part 3, with effect on and from 1 August 1987.
49. (2) Where, on or after 1 August 1987, an employee advises of, or an Agency becomes aware of, a change in circumstances which may affect an employee's entitlement to Northern Territory Allowance, any claim shall be assessed under the provisions of By-law 26 of Part 3,
49. (3) A single parent, other than one referred to at clause (4), has no entitlement under this By-law.

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CONTINUATION OF ENTITLEMENT APPLYING PRIOR TO 1 AUGUST 1987

49. (4) A male compulsory transferee who, prior to 1 August 1987, was receiving payment of Northern Territory Allowance at the with dependent rate in respect of:
- (a) his spouse who was unemployed;
 - (b) his spouse who was employed outside of the Northern Territory Public Service or the Commonwealth Public Service;
 - (c) being a widower or divorced and providing a home for his children;
 - (d) not having a spouse but providing a home for his children under other circumstances approved by the Commissioner;
 - (e) not providing a home for his children but paying maintenance at a specified rate in respect of his children who were not domiciled with him,

shall continue to receive payment at the with dependent rate only to the extent that the employee's domestic circumstances continue unchanged.

49. (5) A female compulsory transferee who, prior to 1 August 1987, was receiving payment of Northern Territory Allowance at the with dependent rate in respect of :
- (a) her disabled or otherwise unemployable husband;
 - (b) being a widow or divorced and providing a home for her children;
 - (c) not having a spouse but providing a home for her children under other circumstances approved by the Commissioner,

shall continue to receive payment at the with dependent rate only to the extent that the employee's domestic circumstances continue unchanged.

PAYMENT DURING LEAVE

49. (6) Northern Territory allowance is payable during all periods of recreation leave and paid sick leave provided that the employee resumes duty in the Northern Territory at the expiration of the period of leave but shall not apply to a period of sick leave taken immediately prior to invalidity retirement.
49. (7) Northern Territory Allowance may be payable under certain circumstances during long service leave subject to By-law 8 of Part 2.

49. (8) Northern Territory Allowance is to be included in payments in lieu of recreation leave only in respect of that part of the recreation leave that accrued to the employee while stationed in the Northern Territory.

By-law 50 - Leave Without Pay

ENTITLEMENT

50. (1) An employee to whom this Part applies may apply to their Chief Executive Officer for leave without pay to seek re-employment with the Australian Public Service.
50. (2) A Chief Executive Officer may approve leave without pay for a maximum of 3 months where the employee provides proof that they have actively attempted to obtain employment through normal application procedures prior to the grant of that leave.

By-law 51 - Removal Expenses

APPLICATION

51. (1) This By-law applies only to a compulsorily transferred employee who, prior to their transfer to the Northern Territory Public Service, was permanently appointed to:
- (a) the former Northern Territory Public Service or,
 - (b) the Commonwealth Public Service in the Northern Territory, and
- as a result of that appointment was required to relocate to a locality within the Territory and the expense of that relocation was met by Government.

TRAVEL AND REMOVAL COSTS

51. (2) Where an employee to whom this By-law applies ceases duty due to-
- (a) retirement on the grounds of age under section 36 of the Act,
 - (b) retirement due to total and permanent incapacity under the provisions of section 48 of the Act,
 - (c) death,
- a Chief Executive Officer shall, subject to this By-law, authorise payment to the employee, or to the dependents of a deceased employee, the whole or part of the cost of conveyance of the employee, dependents (if any) and furniture and household effects subject to clause 3.

51. (3) The maximum value under clause (2) shall be the lesser of:
- (a) the cost incurred to remove the employee, dependents (if any) and personal effects from the place they were originally relocated to in the Northern Territory, (notwithstanding that on cessation the employee may be stationed at another locality), back to the place they were recruited from at that time, or
 - (b) removal to an alternative locality of the employee's choosing.
51. (4) An employee who was appointed in accordance with clause (1) from overseas shall for the purposes of this By-law be deemed to have been appointed from the place being their first port of call in Australia.

TIME LIMIT FOR REMOVAL

51. (5) Unless approved by the Commissioner, removal of an employee and/or personal effects shall be effected within a period of 90 days after cessation of duty or 180 days in the case of an employee's death.

PAYMENT

51. (6) The Chief Executive Officer, in determining the amount of reimbursement or assistance to be made available shall consider -
- (a) the circumstances of the appointment and any other relevant details,
 - (b) quotations for the cost of removal provided by the employee in accordance with clause (11), and
- in all cases any assistance determined shall only be provided as reimbursement upon proof of expenditure incurred or as a payment direct to a commercial carrier.
51. (7) Unless removal actually occurs there is no entitlement under this By-law.
51. (8) Reimbursement under this By-law shall not include -
- (a) excess baggage charges for air travel;
 - (b) meal and accommodation expenses;
 - (c) any cost associated with storage of household furniture or effects;
 - (d) freight of pets;
 - (e) vehicle allowance under provisions of other By-laws.

51. (9) In addition to any other allowance or reimbursement, a Chief Executive Officer may approve the cost of freighting a vehicle where sufficient circumstances prevent it being driven by the employee or family representative but in no case shall the cost of removing more than 2 vehicles be approved.
51. (10) For the purposes of clause (9), 'vehicle' shall include a motor vehicle, caravan, boat (on a trailer), trailer or motor cycle.

ARRANGEMENTS

51. (11) An employee, or the family of a deceased employee, is responsible for -
- (a) all matters concerning the organisation and conduct of removal, and
 - (b) obtaining sufficient quotations for removal to assist the Chief Executive Officer's determination of the amount of assistance or reimbursement, if any, to be provided under this By-law.

By-law 52 - Fares For Children Attending School

ENTITLEMENT

52. (1) A Chief Executive Officer may, subject to this By-law, approve reimbursement to an employee in respect of a child's fare where that child is under the age of 18 and attends secondary school away from the employee's head station.
52. (2) Reimbursement under this By-law may be made only in respect of the cost for the child's travel home in one year or in the alternate year, travel to join the employee or the employee's spouse and family on leave at another locality during the Christmas school holidays.
52. (3) Reimbursement of fares under either clause (5) or (6) or clauses (7) or (8) is only available on a cyclic basis once every 2 years and the cycle depends upon which type of fare is utilised by the employee in the first year of entitlement.
52. (4) Where an employee claims reimbursement under clause (5) and (6) in one year, that employee has no eligibility for reimbursement under those clauses but has an entitlement under clauses (7) and (8) in the next year, and vice versa.

FARE TO RETURN TO HEADQUARTERS

52. (5) Subject to this By-law, a Chief Executive Officer may reimburse to the employee the amount paid for fares where a child travels from school to the employee's head station during the Christmas school holidays, and, if the child returns to school at the end of those school holidays to continue secondary education, the amount paid in respect of the child's return journey.
52. (6) Reimbursement under clause (5) shall be for the lesser of:
- (a) the amount paid by the employee for fares for the child's travel to the head station; or
 - (b) the amount that would have been payable had the child travelled from the nearest capital city to the head station.

FARE TO JOIN PARENTS ON LEAVE

52. (7) Where, in a year other than a year referred to in clause (5), the employee or the employee's spouse utilises a leave air fare in accordance with By-law 47 and is away from the home station during the Christmas school holidays, the Chief Executive Officer may reimburse the employee the amount paid for fares in respect of travel by the child to join the employee or the employee's spouse on leave and, if the child returns to school at the end of those school holidays to continue secondary education, the amount paid in respect of the child's return journey.
52. (8) Reimbursement under clause (7) shall be for the lesser of:
- (a) the amount paid by the employee for fares for the child's travel to join the employee or the employee's spouse on leave;
 - (b) the amount that would have been payable had the child travelled from the school to the nearest capital city or destination of a lesser distance nearest to where the employee or the employee's spouse is on leave; or
 - (c) the amount that would have been payable in accordance with By-law 47 had the child accompanied the employee or the employee's spouse from the head station to the place where the employee or the employee's spouse is on leave.

LIMITATIONS

52. (9) An entitlement under this By-law shall be subject to the following limitations.
- (a) Reimbursement is restricted to travel during the school holidays which commence in December.

- (b) The child must be under the age of 18 or in the case of a child attaining the age of 18 during a school year, a one way entitlement only may be reimbursed under either clause (5) or (7) at the end of that school year.
- (c) The fare costs reimbursable under this By-law are for economy air travel within Australia only and exclude any costs of air travel overseas.
- (d) This By-law shall apply in respect of secondary education away from home and does not apply in respect of a child who attends primary school or undertaking tertiary study.
- (e) Employees must utilise student concession fares where they are available and reimbursement shall not exceed the value of a concession fare.
- (f) Employees shall not be provided with travel warrants or similar authority to meet the anticipated cost of travel as an entitlement under this By-law is available only as reimbursement upon proof of expenditure.
- (g) Reimbursement shall not be provided to an employee whose child is entitled to the grant of a fare similar to those authorised in this By-law from any other source, but shall utilise the fare from that other source.

By-law 53 - Maternity Leave

APPLICATION

- 53. (1) This By-law applies only to an employee who was compulsorily transferred to the Public Service of the Northern Territory before 28 November 1978.
- (2) The period of mandatory leave granted under this By-law shall not be reduced.

GRANT OF MATERNITY LEAVE

- 53. (3) The Chief Executive Officer may grant to an eligible employee who is pregnant a maximum of 52 weeks maternity leave comprising a paid mandatory period of 12 weeks and an optional period of 40 weeks that is unpaid but subject to the use of paid credits during the latter period.
- 53. (4) An eligible employee shall commence the 12 weeks mandatory period of maternity leave not later than 6 weeks before the expected date of birth and the leave shall extend to 6 weeks after the actual date of birth.

EXTENSION OF MANDATORY PERIOD OF MATERNITY LEAVE

53. (5) Where the birth is later than expected the Chief Executive Officer shall extend the mandatory period of paid maternity leave until 6 weeks after the actual birth.

DOCUMENTS IN SUPPORT OF APPLICATION

53. (6) An eligible employee shall furnish to the Chief Executive Officer the following documents in support of an application for maternity leave as soon as they become available -
- (a) before commencing the leave - medical evidence stating the estimated date of confinement to establish the commencement date of the mandatory period of maternity leave; and
 - (b) after confinement - the child's birth certificate or extract.

RATE OF PAYMENT DURING PERIOD OF MATERNITY LEAVE, &C.

53. (7) The rate of payment during the mandatory period of maternity leave shall be calculated as if the employee was absent on sick leave with full pay.
53. (8) The rate of payment during other periods of paid leave shall be calculated in accordance with the By-laws applying to the type of leave utilised.

UTILISATION OF LEAVE CREDITS

53. (9) An eligible employee may utilise accrued sick leave credits during the optional period of maternity leave without the requirement to produce medical evidence that she is unfit for duty on account of illness and, in addition, may utilise accrued and pro rata recreation leave and/or long service leave credits during the optional period.

EMPLOYMENT WHILE ON MATERNITY LEAVE

53. (9A) Subject to the Chief Executive Officer's approval, an employee on maternity leave without pay may return to duty for any period with the Agency, or another Agency.
53. (9B) An employee on leave without pay may engage in outside employment in accordance with section 61 of the Act.

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53. (9C) Employment under clause (9A) or (9B) shall -
- (a) not prevent the employee from recommencing maternity leave; and
 - (b) not extend the maximum period of maternity leave as prescribed under clause (3).

PREMATURE BIRTH AND TERMINATION OF PREGNANCY

53. (10) Where an eligible employee's child is born prematurely, after the commencement of the mandatory period of maternity leave, the period of leave shall not be affected and the employee shall be entitled to payment for the whole of the 12 week period.
53. (11) Where an eligible employee's child is born prematurely before the scheduled commencement of the mandatory period of maternity leave, the leave shall be deemed to have commenced on the day of the child's birth and shall extend for 12 weeks after that date.
53. (12) Where an eligible employee's pregnancy is terminated before the scheduled commencement of the mandatory period of maternity leave but not more than 20 weeks before the estimated date of confinement, the mandatory period shall be deemed to have commenced on the date of termination of the pregnancy and shall extend for 12 weeks from that date.
53. (13) Where an eligible employee's pregnancy is terminated more than 20 weeks before the estimated date of confinement, the employee shall have no eligibility for maternity leave and any leave taken as a result of the termination shall be granted under the normal provisions applying to the type of leave utilised.

STILLBIRTH AND INFANT DEATH

53. (14) Where an eligible employee's child is stillborn less than 20 weeks before, or at any time after the expected date of confinement, or dies during the period of maternity leave, leave in accordance with this By-law shall continue unless the employee elects to resume duty before the expiration of 52 weeks maternity leave.

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EFFECT OF MATERNITY LEAVE ON SERVICE

53. (15) The whole of the period of maternity leave of an eligible employee shall count as service for all purposes except that the period to count as service for recreation leave and leave air fares shall be the first 26 weeks or the period of paid leave, whichever is the longer.

PATERNITY LEAVE

53. (16) An eligible employee who is a male and who is the father of, or who accepts the responsibility for the care and maintenance of, an expected or newly-born child shall be entitled to paternity leave.
53. (17) A Chief Executive Officer may grant to an eligible employee up to one week's paternity leave which shall commence within the period from one week before the estimated date of birth of the child to 5 weeks after the actual date of the child's birth.
53. (18) The paternity leave may be taken as a continuous period or in separate periods of at least one day.
53. (19) A period of paternity leave that extends beyond the end of the fifth week after the actual date of birth of the child shall be continuous with leave that commenced before that date.

PAYMENT DURING PATERNITY LEAVE

53. (20) An eligible employee shall be entitled to payment during paternity leave equivalent to the payment that would have been made had the employee continued on duty for the period and absence on paternity leave shall be allowed for 5 working days regardless of the number of hours that the employee is required to perform normal duty on those days.

By-law 54 - Other Entitlement

GENERAL

54. (1) Where an employee to whom this Part applies, is of the opinion that they may be entitled to a provision which varies from those contained in the Northern Territory Public Sector By-laws, Agencies may forward full details of the claim to the Commissioner for Public Employment for assessment.
54. (2) A submission referred to in clause (1) must include all relevant details of the employee's appointment and employment history and documentary evidence of their compulsory transfer to the Northern Territory Public Service or to the Northern Territory Teaching Service.

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