

NORTHERN TERRITORY OF AUSTRALIA

Public Sector Employment and Management Act

DETERMINATION NUMBER 6 of 2009

I, KENNETH DONALD SIMPSON, the Commissioner for Public Employment, pursuant to section 13(a) and 14(2) of the *Public Sector Employment and Management Act* determine that:

1. The National Employment Standards, as defined in Part 2-2 of the *Fair Work Act 2009* (Cth), affect the terms and conditions of Northern Territory Public Sector workplace agreements to the extent specified in the Schedule.
2. The Schedule, effective from 1 January 2010, sets out the requirements of the National Employment Standards in relation to the following workplace agreement terms and conditions:
 - (a) Recreation Leave
 - Accrual of Leave
 - Cash-Out of Leave
 - (b) Personal Leave
 - Personal Leave being used for Carer's Leave
 - (c) Compassionate Leave
 - New entitlement for all casual employees to unpaid Compassionate Leave
 - (d) Parental Leave
 - Commencement of Paternity/Partner and Adoption Leave
 - Minimum period of concurrent leave for employee couples
 - Accessing accrued Recreation Leave and Long Service Leave entitlements whilst on unpaid Parental Leave
 - New entitlement for all casual employees to unpaid Pre-Adoption Leave
 - Returning to work after a period of Parental Leave
 - (e) Flexible Working Arrangements
 - Employees' right to request flexible working arrangements
 - New entitlement for eligible casual employees to request flexible working arrangements
 - (f) Redeployment and Redundancy Entitlements
 - Minimum severance payment for employees with 2 or 3 years of service
3. All other workplace agreement terms and conditions of employment continue to apply in accordance with the terms of the relevant workplace agreement.

4. Unless otherwise stated, reference in this Determination and the Schedule to “workplace agreement” or “agreement” means a reference to the following:

- (a) Northern Territory Public Sector 2008 – 2010 Union Collective Agreement
- (b) Darwin Port Corporation (Northern Territory Public Sector) 2008 – 2011 Union Collective Agreement
- (c) Darwin Port Corporation Marine Pilots’ 2008 Union Collective Agreement
- (d) Dental Officers (NTPS) 2008 – 2011 Agreement - Determination 1008 of 2009
- (e) Medical Officers (Northern Territory Public Sector) Workplace Agreement 2008 – 2010
- (f) Northern Territory Public Sector Fire and Rescue Service 2007 – 2010 Partnership Agreement
- (g) Northern Territory Public Sector Nurses’ 2008 – 2011 Union Collective Agreement
- (h) Northern Territory Public Sector 2008 – 2010 Teacher and Educator Union Collective Agreement
- (i) 2007 – 2010 Power and Water Union Collective Agreement – Working Together to Meet the Challenge
- (j) Prison Officer (NTPS) 2008 – 2011 Union Collective Agreement

Dated 30 DECEMBER , 2009



KEN SIMPSON
Commissioner for Public Employment

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RECREATION LEAVE	Current Agreement Term/Entitlement	NEW Term/Entitlement Effective 1 January 2010	Workplace Agreement	Clause
<p>1. Accrual of Leave</p> <p><i>In accordance with:</i></p> <p><i>Fair Work Act 2009 (FWA)</i></p> <p><i>s 87(2)</i></p>	<p>An employee will accrue one thirteenth of his/her annual recreation leave entitlement for each completed four weeks of continuous service.</p>	<p>1.1 <i>An employee's entitlement to paid recreation leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.</i></p> <p><i>Note: "Progressive accrual" means that leave accrues progressively rather than by defined period, such as 1/13 every 4 weeks. Thus, an employee does not have to wait until end of particular period to be entitled to paid annual recreation leave.</i></p>	NTPS 2008 – 2010 UCA	45.4(a)
			Darwin Port Corporation (NTPS) 2008-2011 UCA	33.6.1
			Darwin Port Corporation Marine Pilots' 2008 UCA	30.4(a)
			Dental Officers (NTPS) 2008 - 2011 Agreement	26.4
			Medical Officers (NTPS) Workplace Agreement 2008 - 2010	App.C 2.4(a)
			NTPS Fire and Rescue Service 2007 – 2010 Partnership Agreement	40.5.1
			NTPS Nurses' 2008-2011 UCA	56.4(a)
			NTPS 2008 – 2010 Teacher and Educator UCA	35.4(a)
			2007 – 2010 Power and Water UCA – Working Together to Meet the Challenge	85.8(a)
Prison Officer (NTPS) 2008 – 2011 UCA	20.4(a)			
<p>2. Cash-Out of Leave</p> <p><i>In accordance with:</i></p> <p><i>FWA s 93</i></p>	<p>An employee may apply, in writing, to the CEO to cash-out up to 2 weeks of his/her available recreation leave each year.</p>	<p>2.1 <i>In addition to the maximum cash-out of up to 2 weeks of his/her available recreation leave per year, paid recreation leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid recreation leave being less than 4 weeks.</i></p>	NTPS 2008 – 2010 UCA	45.8
			Darwin Port Corporation (NTPS) 2008-2011 UCA	33.9
			Darwin Port Corporation Marine Pilots' 2008 UCA	30.8
			Medical Officers (NTPS) Workplace Agreement 2008 - 2010	App.C 2.8

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			NTPS Nurses' 2008-2011 UCA	56.8
			NTPS 2008 – 2010 Teacher and Educator UCA	35.8
			2007 – 2010 Power and Water UCA – Working Together to Meet the Challenge	85.6
			Prison Officer (NTPS) 2008 – 2011 UCA	20.7
PERSONAL/ CARER'S LEAVE	Current Agreement Term/Entitlement	NEW Term/Entitlement Effective 1 January 2010	Workplace Agreement	Clause
3. Cap on Carer's Leave <i>In accordance with: FWA s 97</i>	An employee is entitled to access paid carer's leave up to a maximum of 10 days accrued personal leave in any personal leave year, or such higher number of accrued personal leave days as agreed by CEO.	3.1 <i>Subject to notice and evidence requirements set out in the relevant agreement, an employee is entitled to use any of his/her personal leave as carer's leave up to a maximum of his/her accrued personal leave entitlement.</i> <i>Note: Workplace agreement clauses providing for an annual 10-day cap on the use of personal leave for carer's leave no longer apply.</i>	NTPS 2008 – 2010 UCA	44.4(a)(ii)
			Darwin Port Corporation (NTPS) 2008-2011 UCA	34.4.1(b)
			Darwin Port Corporation Marine Pilots' 2008 UCA	33.4(a)(ii)
			Dental Officers (NTPS) 2008 - 2011 Agreement	25.4(a)(ii)
			Medical Officers (NTPS) Workplace Agreement 2008 - 2010	App.C 4.5 (a)(ii)
			NTPS Fire and Rescue Service 2007 – 2010 Partnership Agreement	41.4.1(b)
			NTPS Nurses' 2008-2011 UCA	55.4(a)(ii)
			NTPS 2008 – 2010 Teacher and Educator UCA	34.4(a)(ii)
			2007 – 2010 Power and Water UCA – Working Together to Meet the Challenge	88.4(a)(ii)
			Prison Officer (NTPS) 2008 – 2011 UCA	19.4(a)(ii)

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COMPASSIONATE LEAVE	Current Agreement Term/Entitlement	NEW Term/Entitlement Effective 1 January 2010	Workplace Agreement	Clause
<p>4. Unpaid Compassionate Leave for Casual Employees</p> <p><i>In accordance with:</i> FWA ss 104 & 105</p>	<p>No entitlement for casual employees to compassionate leave.</p>	<p>4.1 (a) <i>In the event of the death of, or a serious illness posing a threat to the life of a casual employee's immediate family, or household member, the casual employee is entitled to 2 days of unpaid compassionate leave for each occasion.</i></p> <p>(b) <i>An employee may take compassionate leave as:</i></p> <p>(i) <i>a single continuous 2 day period; or</i></p> <p>(ii) <i>2 separate periods of 1 day each; or</i></p> <p>(iii) <i>any separate periods to which the employee and the CEO agree.</i></p> <p>(c) <i>The CEO may require the employee to produce documentary evidence of the need for compassionate leave.</i></p>	NTPS 2008 – 2010 UCA	<p>New entitlement for casual employees.</p>
			Darwin Port Corporation (NTPS) 2008-2011 UCA	
			Darwin Port Corporation Marine Pilots' 2008 UCA	
			Dental Officers (NTPS) 2008 - 2011 Agreement	
			Medical Officers (NTPS) Workplace Agreement 2008 - 2010	
			NTPS Fire and Rescue Service 2007 – 2010 Partnership Agreement	
			NTPS Nurses' 2008-2011 UCA	
			NTPS 2008 – 2010 Teacher and Educator UCA	
			2007 – 2010 Power and Water UCA – Working Together to Meet the Challenge	
Prison Officer (NTPS) 2008 – 2011 UCA				

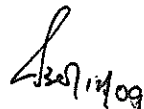
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PARENTAL LEAVE	Current Agreement Term/Entitlement	NEW Term/Entitlement Effective 1 January 2010	Workplace Agreement	Clause
<p>5. Paternity/ Partner Leave & Adoption Leave</p> <p><i>In accordance with:</i></p> <p>FWA s 71(4)-(6), s 72 (3)-(4) & s 76(1)</p>	<p>An employee taking 52 weeks paternity/partner leave or adoption leave is required to end such leave within 12 months of date of birth or placement of child.</p>	<p>5.1(a) An employee taking 12 months paternity/partner leave or adoption leave must commence their leave:</p> <p>(i) at anytime within 12 months from date of birth for paternity/partner leave or from two weeks prior to day of placement of child for adoption leave;</p> <p>or</p> <p>(ii) where the employee's partner has taken a period of parental leave, or adoption leave, his/her paternity/partner leave, or adoption leave, must start immediately after the end of their partner's period of leave (including any period of leave extended in accordance with the relevant workplace agreement) and provided that such leave must end within 24 months from date of birth or day of placement of the child.</p> <p>(b) An employee whose leave starts under subparagraph 5.1 (a)(i) or 5.1 (a)(ii) is entitled to request an extension of the period of leave beyond his or her original parental leave period, subject to requirements of the</p>	NTPS 2008 – 2010 UCA	42.6(a)(iii)/ 42.7(a)(iii)-(iv)
			Darwin Port Corporation (NTPS) 2008-2011 UCA	35.6.1(c)/ 35.7.1(c)-(d)
			Darwin Port Corporation Marine Pilots' 2008 UCA	32.6(a)(iii)/ 32.7(a)(iii)-(iv)
			Dental Officers (NTPS) 2008 - 2011 Agreement	23.6(a)(iii)/ 23.7(a)(iii)-(iv)
			Medical Officers (NTPS) Workplace Agreement 2008 - 2010	App.C 1.6(a)(iii)/ 1.7(a)(iii)-(iv)
			NTPS Fire and Rescue Service 2007 – 2010 Partnership Agreement	42.6.1(c)/ 42.7.1(c)-(d)
			NTPS Nurses' 2008-2011 UCA	53.6(a)(iii)/ 53.7(a)(iii)-(iv)
			NTPS 2008 – 2010 Teacher and Educator UCA	31.6(a)(iii)/ 31.7(a)(iii)-(iv)
			2007 – 2010 Power and Water UCA – Working Together to Meet the Challenge	84.6(a)(iii)/ 84.7(a)(iii)-(iv)
			Prison Officer (NTPS) 2008 – 2011 UCA	17.6(a)(iii)/ 17.7(a)(iii)-(iv)

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		<p><i>relevant agreement (such as notice periods and accounting for any period of paid or unpaid parental leave or special maternity leave that the other member of the employee couple has taken in relation to the child). However, an employee is not entitled to extend the period of unpaid parental leave beyond 24 months after the date of birth or day of placement of the child.</i></p> <p><i>Note: Requirement that 52 weeks of paternity/partner leave or adoption leave must end within 12 months of date of birth or placement of child no longer applies.</i></p>		
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<p>6. Concurrent Leave</p> <p><i>In accordance with:</i> FWA s 72 (5)-(6)</p>	<p>An employee may access 1 week, starting at the time of birth, of paternity/ partner leave at the same time that the employee's spouse is taking paid or unpaid maternity leave. This period of leave is unpaid unless the employee has completed 12 months of continuous service.</p> <p>The employee may request that the CEO extend the period of paternity/partner leave to a maximum of 8 weeks.</p>	<p>6.1 (a) <i>In addition to the current entitlement of 1 week, paid or unpaid, paternity/partner leave, an employee may access a further 2 weeks unpaid leave at the time of birth of the child and at the same time that the employee's spouse is taking paid or unpaid maternity leave.</i></p> <p>(b) <i>The CEO may approve the employee to start leave under subparagraph 6.1(a) earlier than is permitted by the relevant workplace agreement.</i></p> <p><i>Note: An employee's right to request an extension of paternity/partner leave to a maximum of 8 weeks continues to apply.</i></p>	NTPS 2008 – 2010 UCA	42.6(a)(i)-(ii)
			Darwin Port Corporation (NTPS) 2008-2011 UCA	35.6.1(a)-(b)
			Darwin Port Corporation Marine Pilots' 2008 UCA	32.6(a)(i)-(ii)
			Dental Officers (NTPS) 2008 - 2011 Agreement	23.6(a)(i)-(ii)
			Medical Officers (NTPS) Workplace Agreement 2008 - 2010	App.C 1.6 (a) (i)-(ii)
			NTPS Fire and Rescue Service 2007 – 2010 Partnership Agreement	42.6.1(a)-(b)
			NTPS Nurses' 2008-2011 UCA	53.6(a)(i)-(ii)
			NTPS 2008 – 2010 Teacher and Educator UCA	31.6(a)(i)-(ii)
			2007 – 2010 Power and Water UCA – Working Together to Meet the Challenge	84.6(a)(i)-(ii)
Prison Officer (NTPS) 2008 – 2011 UCA	17.6(a)(i)-(ii)			
<p>7. Interaction with Paid Leave</p> <p><i>In accordance with:</i> FWA s 79 (1)-(2)</p>	<p>An employee on unpaid parental leave may access accrued recreation leave, long service leave and personal leave entitlements, at any time within 52 weeks of commencing the period of unpaid parental leave.</p>	<p>7.1 <i>An employee who has been granted an extension of unpaid ordinary maternity, paternity/partner or adoption leave by up to 12 months may access accrued recreation leave and long service leave entitlements whilst on the extended period of unpaid parental leave.</i></p> <p>7.2 <i>Where an employee on extended parental leave</i></p>	NTPS 2008 – 2010 UCA	42.9(a)
			Darwin Port Corporation (NTPS) 2008-2011 UCA	35.9.1
			Darwin Port Corporation Marine Pilots' 2008 UCA	32.9(a)
			Dental Officers (NTPS) 2008 - 2011 Agreement	23.9(a)
			Medical Officers (NTPS) Workplace Agreement 2008 - 2010	App.C 1.9(a)

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		accesses other leave entitlements under sub-paragraph 7.1, other paid leave does not break the continuity of the period of unpaid parental leave.	<p>NTPS Fire and Rescue Service 2007 – 2010 Partnership Agreement</p> <p>NTPS Nurses' 2008-2011 UCA</p> <p>NTPS 2008 – 2010 Teacher and Educator UCA</p> <p>2007 – 2010 Power and Water UCA – Working Together to Meet the Challenge</p> <p>Prison Officer (NTPS) 2008 – 2011 UCA</p>	<p>42.12.1</p> <p>53.9(a)</p> <p>31.9(a)</p> <p>84.9(a)</p> <p>17.9(a)</p>
<p>8. Unpaid Pre-Adoption Leave for Casual Employees</p> <p>In accordance with: FWA s 85</p>	No entitlement for casual employees to pre-adoption leave.	<p>8.1 (a) A casual employee is entitled to up to 2 days of unpaid pre-adoption leave to attend any interviews or examinations required in order to obtain approval for the employee's adoption of a child.</p> <p>(b) The leave may be taken as:</p> <p>(i) a single continuous period of up to 2 days; or</p> <p>(ii) any separate periods to which the employee and the CEO agree.</p> <p>(c) Notice and evidence requirements.</p> <p>(i) The notice:</p> <ul style="list-style-type: none"> - Must be given to the CEO as soon as practicable (which may be a time after the leave has started); and - Must advise the CEO of the period, or expected 	<p>NTPS 2008 – 2010 UCA</p> <p>Darwin Port Corporation (NTPS) 2008-2011 UCA</p> <p>Darwin Port Corporation Marine Pilots' 2008 UCA</p> <p>Dental Officers (NTPS) 2008 - 2011 Agreement</p> <p>Medical Officers (NTPS) Workplace Agreement 2008 - 2010</p> <p>NTPS Fire and Rescue Service 2007 – 2010 Partnership Agreement</p> <p>NTPS Nurses' 2008-2011 UCA</p> <p>NTPS 2008 – 2010 Teacher and Educator UCA</p> <p>2007 – 2010 Power and Water UCA – Working Together to Meet the Challenge</p> <p>Prison Officer (NTPS) 2008 – 2011 UCA</p>	New entitlement for casual employees.

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		<p>period, of the leave.</p> <p>(ii) An employee who has given his or her CEO notice of the taking of unpaid pre-adoption leave must, if required by the CEO, provide evidence that would satisfy a reasonable person that the leave is taken to attend an interview or examination as required in order to obtain approval for the employee's adoption of a child.</p>		
<p>9. Return To Pre-Leave Position</p> <p>In accordance with: FWA s 84</p>	<p>An employee is entitled to return to their pre-leave position, or position of similar pay and status, where the employee is returning from a period of up to 52 weeks' parental leave.</p>	<p>9.1 An employee who, having been granted an extension of up to 12 months of his/her parental leave by the CEO, is returning from a period of extended parental leave is entitled to return to their pre-leave position, or position of similar pay and status.</p>	NTPS 2008 – 2010 UCA	42.13(c)
			Darwin Port Corporation (NTPS) 2008-2011 UCA	35.13.3
			Darwin Port Corporation Marine Pilots' 2008 UCA	32.13(c)
			Dental Officers (NTPS) 2008 - 2011 Agreement	23.13(c)
			Medical Officers (NTPS) Workplace Agreement 2008 - 2010	App. C 1.13(c)
			NTPS Fire and Rescue Service 2007 – 2010 Partnership Agreement	42.16.3
			NTPS Nurses' 2008-2011 UCA	53.13(c)
			NTPS 2008 – 2010 Teacher and Educator UCA	31.13(c)
			2007 – 2010 Power and Water UCA – Working Together to Meet the Challenge	84.13(c)
Prison Officer (NTPS) 2008 – 2011 UCA	17.13(c)			

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FLEXIBLE WORKING ARRANGEMENT	Current Agreement Term/Entitlement	NEW Term/Entitlement Effective 1 January 2010	Workplace Agreement	Clause
<p>10. Requests for Flexible Working Arrangements to Care for Child</p> <p><i>In accordance with:</i> FWA ss 65 & 66, & s 22 (4)</p>	<p>No entitlement for casual employees to request flexible working arrangements to care for a child.</p> <p>No directly comparable provisions exist in NTPS workplace agreements.</p>	<p>10.1 <i>An employee, who has completed at least 12 months continuous service, as defined in paragraph 10.5, and who is a parent, or has responsibility for the care, of a child may request the CEO for a change in working arrangements to assist the employee to care for the child if the child:</i></p> <ul style="list-style-type: none"> i. <i>is under school age; or</i> ii. <i>is under 18 and has a disability</i> <p>10.2 <i>The request must:</i></p> <ul style="list-style-type: none"> i. <i>be in writing, and</i> ii. <i>set out details of the change sought and of the reasons for the change.</i> <p>10.3 <i>The CEO must:</i></p> <ul style="list-style-type: none"> i. <i>give the employee a written response to the request within 21 days, stating whether the CEO grants or refuses the request;</i> ii. <i>the CEO may refuse the request only on reasonable business grounds; and</i> iii. <i>if the request is refused, provide details of the reasons for the refusal.</i> <p>10.4 <i>The provisions of paragraphs 10.1, 10.2 & 10.3 apply to "eligible</i></p>	<p>NTPS 2008 – 2010 UCA</p> <p>Darwin Port Corporation (NTPS) 2008-2011 UCA</p> <p>Darwin Port Corporation Marine Pilots' 2008 UCA</p> <p>Dental Officers (NTPS) 2008 - 2011 Agreement</p> <p>Medical Officers (NTPS) Workplace Agreement 2008 - 2010</p> <p>NTPS Fire and Rescue Service 2007 – 2010 Partnership Agreement</p> <p>NTPS Nurses' 2008-2011 UCA</p> <p>NTPS 2008 – 2010 Teacher and Educator UCA</p> <p>2007 – 2010 Power and Water UCA – Working Together to Meet the Challenge</p> <p>Prison Officer (NTPS) 2008 – 2011 UCA</p>	<p>New entitlement for employees, including eligible casual employees.</p>

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		<p><i>casual employees” as defined in the parental leave provisions of workplace agreements.</i></p> <p><i>10.5 The meaning of ‘continuous service’ in relation to a period of service by an employee in paragraph 10.1 is defined as a period of service by an employee during which the employee is employed by the employer less any period of unauthorised absence that does not count as service.</i></p>		
REDEPLOYMENT AND REDUNDANCY	Current Agreement Term/Entitlement	NEW Term/Entitlement Effective 1 January 2010	Workplace Agreement	Clause
<p>11. Sum Payable Upon Redundancy</p> <p><i>In accordance with: FWA s 119</i></p>	<p>An employee retrenched in accordance with their relevant agreement is entitled to be paid a sum equal to 2 weeks salary including, where applicable, Northern Territory allowance:</p> <p>a) For each completed year of continuous service; and</p> <p>b) A pro rata payment for the months of continuous service completed since the last year of continuous service, provided that the minimum payable under the applicable clause is 4 weeks</p>	<p><i>In addition to the current entitlements:</i></p> <p><i>11.1 The minimum payable for employees with at least 2 years service but less than 3 years service is 6 weeks salary.</i></p> <p><i>11.2 The minimum payable for employees with at least 3 years but less than 4 years service is 7 weeks salary.</i></p>	NTPS 2008 – 2010 UCA	Sch. 10 Pt A 4.4
			Darwin Port Corporation (NTPS) 2008-2011 UCA	Attachment F Pt A 4.4
			Dental Officer (NTPS) 2008 - 2011 Agreement	Sch. B Pt A 4.4
			Medical Officers (NTPS) Workplace Agreement 2008 - 2010	47.1
			NTPS Fire and Rescue Service 2007 – 2010 Partnership Agreement	Attachment A Pt A 4.4
			NTPS Nurses’ 2008-2011 UCA	Sch. 3 Pt A 4.4
			NTPS 2008 – 2010 Teacher and Educator UCA	Sch. 2 Pt A 4.4
			2007 – 2010 Power and Water UCA –	Attachment 2

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	clause is 4 weeks salary and the maximum is 48 weeks salary.		<i>Working Together to Meet the Challenge</i>	Pt A 5.4
			<i>Prison Officer (NTPS) 2008 – 2011 UCA</i>	Sch. B Pt A 4.4

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