

NORTHERN TERRITORY OF AUSTRALIA

Public Sector Employment and Management Act

REVOCATION OF DETERMINATION 3 of 2013

I, JOANNE NORTON, Acting Commissioner for Public Employment, in pursuance of section 14(2) of the *Public Sector Employment and Management Act* and with reference to section 43 of the *Interpretation Act*, revoke Determination Number 3 of 2013.

DETERMINATION 19 of 2023

**COMMONWEALTH SUPERANNUATION SCHEME MEMBER TRANSITION TO
RETIREMENT ARRANGEMENTS**

I, JOANNE NORTON, Acting Commissioner for Public Employment, in pursuance of section 14(2) and section 34 the *Public Sector Employment and Management Act* (the Act), and with reference to section 13(a) of the Act, for the specific purpose of supporting an ongoing Northern Territory Public Sector employee who is a member of the Commonwealth Superannuation Scheme (CSS) to access at his or her discretion CSS transition to retirement arrangements, determine that:

1. subject to the approval of the Chief Executive Officer (CEO), and provided there is no break in service, the employee's employment status may be varied from ongoing to fixed period on a part-time basis and the employee may:
 - (a) perform the same duties at the same designation; or
 - (b) perform alternative duties, where the same duties cannot be performed on a part-time basis due to operational reasons;
 - i. at the same designation, pursuant to section 35(1) of the Act; or
 - ii. at a lower designation with the consent of the employee, pursuant to section 36(3) of the Act;
2. in pursuance of section 34(3) of the Act, the fixed period employment may be performed for a period:
 - (a) not exceeding 5 years if the duties are covered by an exception set out in Division 5 of Part 2-9 of the *Fair Work Act 1999* (Cth); or
 - (b) not exceeding 2 years if the duties are not covered by an exception referred to in subparagraph (a).
3. under section 14(2), 34(4) and 34(5) of the Act and with reference to section 13(a) of that Act, the fixed period employment referred to in paragraph 2:
 - (a) if covered by an exception set out in Division 5 of Part 2-9 of the *Fair Work Act 1999* (Cth), may be renewed as follows:
 - i. the duties to be performed by the employee during each renewal period must be the same duties that were performed by the employee during the original period of employment;
 - ii. if the employee's original period of employment was six months or less – the total duration of the original period of employment and each renewal period must not exceed two years; and

- iii. if the employee's original period of employment was greater than six months – the total duration of the original period of employment and each renewal period must not exceed five years; or
 - (b) if not covered by an exception set out in Division 5 of Part 2-9 of the *Fair Work Act 1999* (Cth), may be renewed on no more than one occasion provided:
 - i. the duties to be performed by the employee during each renewal period must be the same duties that were performed by the employee during the original period of employment; and
 - ii. the original contract and its renewal are for a period of no greater than 2 years.
4. pursuant to any Individual Flexible Working Arrangements provisions in the relevant enterprise agreement, the employee may enter into an individual flexibility arrangement to work in excess of the maximum number of hours for a part-time employee as specified in the enterprise agreement;
5. on changing employment status the employee shall retain accrued recreation leave, personal leave, and continuity of service for the purpose of long service leave where there is no break in employment within the Public Sector;
6. notwithstanding paragraph 4, on ceasing to be an ongoing employee, an employee who consents to changing his or her employment status to a lower designation in accordance with paragraph 1(b)(ii), may elect to cash-out accrued long service leave with a corresponding reduction in leave credits¹; and
7. subject to paragraph 6, any and all terms and conditions provided under the Act and the relevant enterprise agreement will continue as if there had been no change in employment status from ongoing to part-time fixed period except that salary and accrual of entitlements will be in accordance with the part-time rate from the date the fixed period contract commences.
8. This determination will expire 5 years from the date signed, unless revoked sooner.

Dated 7 December 2023



ADJ. PROFESSOR JOANNE NORTON
Acting Commissioner for Public Employment

Note: This determination is to be read in conjunction with Part 5 of the Public Sector Employment and Management Act and associated Employment Instructions and Guidelines regarding the Filling of Vacancies, including Commissioner's Guideline: Fixed Period Employment.

¹ Note: Subject to provisions in relevant enterprise agreements, any employee, regardless of transition to retirement arrangements, may apply to cash-out accrued recreation leave (in excess of four weeks credit). An employee in accordance with 1(b)(ii) will be paid at the higher designation rate where an application to do so is approved prior to commencing a fixed period part-time contract at a lower designation.