

Australian Capital Territory

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2004 (No 2)

Disallowable instrument DI2004-134

made under the

Legislative Assembly (Members' Staff) Act 1989, s 5 (2) (Office-holders may employ staff) and s 17 (3) (Office-holders may engage consultants and contractors)

1 Name of instrument

This instrument is the *Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2004 (No 2)*.

2 Commencement

This instrument commences on the day after its notification day.

3 Dictionary

The dictionary at the end of this instrument is part of this instrument.

Note 1 The dictionary at the end of this instrument defines certain terms used in this instrument.

Note 2 A definition in the dictionary applies to the entire instrument unless the definition, or another provision of the instrument, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this instrument is explanatory and is not part of this instrument.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Revocation

Instrument DI2004-32 is revoked.

6 Determination for Act, s 5 and s 17

This instrument determines conditions subject to which the Speaker may, on behalf of the Territory, hire staff, contractors or consultants under the Act, section 5 or section 17.

7 Application during rest of year ending 30 June 2005

The conditions determined by this instrument apply to a person holding the office of Speaker while the person holds the office for a period or periods (the *period or periods of office*) within the time beginning on the day this instrument commences and ending on 30 June 2005.

8 Salary cap

- (1) The Speaker may, on behalf of the Territory, hire staff, consultants or contractors during the period or periods of office only while the total amount payable for salary and payments, excluding overtime payments, to all staff, consultants and contractors under the Speaker's hire while the Speaker holds office during the financial year does not exceed the amount (the *salary cap*) worked out in accordance with the formula in subclause (2).

- (2) The formula for working out the salary cap is—

$$\text{salary cap} = \$ \frac{165\,150}{261} \times \text{working days}.$$

- (3) In subclause (2):

working days means the number of working days the Speaker holds office in the financial year.

- (4) Despite subclause (1), the Chief Minister may, by written notice to the Speaker, allow the total amount payable for salary and payments, excluding overtime payments, to all staff, consultants and contractors under the Speaker's hire while the Speaker holds office during the financial year to exceed the salary cap.
- (5) The Chief Minister may only allow the salary cap to be exceeded if—
- (a) an employee on the Speaker's staff takes, or is to take, a period of paid leave exceeding 4 continuous weeks during the financial year; and
 - (b) the Speaker hires, or is to hire, a replacement employee, contractor or consultant during the employee's absence on paid leave; and
 - (c) the amount by which the salary cap is exceeded, or is to be exceeded, is no more than the amount of salary or payments, excluding overtime payments, payable to the replacement for work performed by the replacement during that period; and
 - (d) the Chief Minister considers on reasonable grounds that—
 - (i) the requirement for leave is beyond the Speaker's control; and

- (ii) the Speaker would be, or would have been, unable to exercise his or her functions as Speaker without hiring the replacement during the employee's absence on paid leave.

9 Overtime cap

- (1) The Speaker may, on behalf of the Territory, authorise staff to work overtime during the period or periods of office only while the total amount payable (including amounts payable as back pay) to all staff under the Speaker's hire for overtime worked while he or she holds the office during the financial year does not exceed the amount (the ***overtime cap***) worked out in accordance with the formula in subclause (2).

- (2) The formula for working out the overtime cap is—

$$\text{overtime cap} = \$ \frac{11\,561}{261} \times \text{working days}.$$

- (3) In subclause (2):

working days means the number of working days the Speaker holds office in the financial year.

Note The payment of overtime is also subject to any award or certified agreement under the *Workplace Relations Act 1996* (Cwlth) providing conditions of employment for the Speaker's staff.

Dated 25 June 2004.

Jon Stanhope
Chief Minister

Dictionary

(see cl 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this instrument.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- function
- working day.

financial year means the year beginning on 1 July 2004 and ending on 30 June 2005.

hire, in relation to an employee on the Speaker's staff, or a contractor or a consultant, means—

- (a) employ the employee; or
- (b) engage the contractor or consultant.

overtime means overtime for which an amount is paid or payable under an award or certified agreement under the *Workplace Relations Act 1996* (Cwlth).

overtime cap—see clause 9 (1).

period or periods of office—see clause 7 (1).

salary cap—see clause 8 (1).