

Legislative Assembly (Members' Staff) Variable Terms Of Employment Of Ministerial Staff Determination 2016 (No 1)

Disallowable instrument DI2016-276

made under the

Legislative Assembly (Members' Staff) Act 1989, s 6 (3) (Terms of employment)

1 Name of instrument

This instrument is the *Legislative Assembly (Members' Staff) Variable Terms of Employment of Ministerial Staff Determination 2016 (No 1)*.

2 Commencement

This instrument commences on the day after its notification day.

3 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.

4 Definition

In this instrument:

Act means the *Legislative Assembly (Members' Staff) Act 1989*.

ACT Public Service means the service established under section 12(1) of the *Public Sector Management Act 1994*.

head of service means the person engaged as head of service under section 31(1) of the *Public Sector Management Act 1994*.

Minister means a minister as defined in the *Australian Capital Territory (Self-Government) Act 1988*.

officer means a person who is an officer because of the *Public Sector Management (Consequential and Transitional Provisions) Act 1994*, or who is appointed as an officer under division 5.3 or part 7 of the *Public Sector Management Act 1994*.

5 Approval for Act, s 6

This instrument determines the variable terms of employment of specified part 2 employees under the Act, section 6.

Note Staff are also employed subject to terms of employment under any award or enterprise agreement under the Fair Work Act 2009 (Cth) that applies to the staff of Ministers.

6 Class of persons to whom this determination applies

This determination applies to part 2 employees who are employed by Ministers.

7 Variable terms of employment

- (1) The following variable terms of employment apply to employees granted Leave Without Pay from the ACT Public Service to undertake employment with a Minister:
 - (a) The period of Leave Without Pay is to count as service for all purposes, provided that entitlements accrued or utilised during the period of Leave Without Pay shall be treated as though accrued or utilised in the ACT Public Service.
 - (b) The employee's accrued personal leave, annual leave and long service leave at the time of commencing Leave Without Pay shall be transferred to his or her employment with a Minister. The employee is entitled to use his or her transferred leave during the employee's period of Leave Without Pay, subject to approval by the Minister or by an authorised person.
 - (c) On ceasing employment with a Minister at the end of a period of Leave Without Pay a part 2 employee who is also an officer has the right to:
 - (i) return to employment with the ACT Public Service at his or her substantive classification prior to commencing Leave Without Pay; and
 - (ii) apply to the Head of Service for a determination to be made of his or her classification and rate of pay as an officer upon return to the ACT Public Service, in accordance with arrangements approved by the Head of Service.
 - (d) On his or her return to employment with the ACT Public Service, any accrued personal leave, annual leave and long service leave, less any utilised leave, will be transferred back to the ACT Public Service.

Dated 3 November 2016

Andrew Barr
Chief Minister