

# Legislative Assembly (Members' Staff) Member's Salary Cap Determination 2007 (No 1)

Disallowable instrument DI2007-165

Legislative Assembly (Members' Staff) Act 1989, s 10 (2) (Members may employ staff) and s 20 (3) (Members may engage consultants and contractors)

## EXPLANATORY STATEMENT

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### Legislative Context

The *Legislative Assembly (Members' Staff) Act 1989* ("the Act") provides for the employment of staff, and the engagement of consultants or contractors, by members of the Legislative Assembly.

Subsections 10(1) and 20(1) of the Act give members the authority to employ staff, and engage consultants and contractors, respectively. Subsections 10(2) and 20(3) provide for the Chief Minister to determine in writing the conditions within which members may exercise that authority. Such a determination is a disallowable instrument.

### Outline

This Instrument revokes disallowable instrument DI2006–130. The purpose of DI2006–130 was to provide conditions under which members may employ staff and engage consultants or contractors from 1 July 2006.

This determination provides conditions under which members may employ staff and engage consultants and contractors for the 2007–2008 financial year. Schedule 1 to this determination sets out the annual salary allocations by position.

Disallowable instrument DI2006–130 provided a separate allocation to members for the payment to staff for overtime worked. The overtime allocation is omitted from this determination, as paid overtime is replaced under the *ACT Legislative Assembly Members' Staff Union Collective Agreement 2007–2010*, from 1 July 2007, by an allowance paid directly to employees.

This determination provides authority for the carry over of up to a maximum of 10% of a member's 2006–2007 salary allocation remaining unexpended.

## Conditions

Numbered clause 2 sets the commencement of the instrument as 1 July 2007.

Numbered clause 5 revokes disallowable instrument DI2006–130.

Numbered clause 7(1) sets that the conditions apply to a member while the member holds a position listed in schedule 1 to the instrument during the 12-month period ending on 30 June 2008.

Numbered clause 7(2) sets that where a member holds two or more positions during this period, the conditions that apply to the period the member holds each relevant position will be considered separately.

Numbered clause 8(1) sets the condition that a member may only employ staff, or engage consultants or contractors, while the total amount payable for salary and payments do not exceed the prescribed salary cap while the member holds the relevant position during the 2007–2008 financial year.

Numbered clause 8(2) sets the formula for calculating the relevant salary cap. The formula provides for the carry over by a member of unspent salary allocation from the 2006–2007 financial year. Numbered clause 8(3) limits the carry over to no more than 10% of the member's annual salary allocation for that financial year. To remove any doubt about the applicable carry over in the circumstance where a member moves from one relevant position to another during the 2007–2008 financial year, the clause also stipulates the carry over, if any, is that which exists in respect of the relevant position to which the member has moved.

Numbered clause 8(4) provides that a member may, with the written agreement of the Chief Minister, hire staff, consultants and contractors outside the salary cap in certain circumstances. These circumstances are set out in numbered clause 8(5). Sub-clause 8(5)(c) is amended to clarify its intent and to remove any ambiguity.

Numbered clauses 9(1), 9(2) and 9(3) of disallowable instrument DI2006–130 have been omitted from this determination, as the allocation for paid overtime is replaced by an allowance paid directly to employees from 1 July 2007.

Schedule 1 sets out the annual salary allocations for the relevant positions covered by the determination. Annual overtime allocations have been omitted from the Schedule.

References to overtime and overtime cap have been omitted from the Dictionary.