

Legislative Assembly (Members' Staff) Office-holders' Hiring Arrangements Approval 2008 (No 1)

Disallowable instrument DI2008-102

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)

EXPLANATORY STATEMENT

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 office-holders (Ministers and "the Speaker") of the Legislative Assembly.

Subsections 5(1) and 17(1) of the Act give office-holders the authority to employ staff, and engage consultants and contractors, respectively. Subsections 5(2) and 17(3) provide for the Chief Minister to determine in writing the arrangements within which office-holders may exercise that authority. Such a determination is a disallowable instrument.

Outline

This instrument revokes disallowable instrument DI2005-290 and puts in place new arrangements. The purpose of the determination is to provide the arrangements under which office-holders may agree to employ staff under subsection 5(1), or engage consultants and contractors under subsection 17(1), of the Act.

The requirement in clause 7.1(k) of schedule 1 that staff of office-holders comply with the requirements of the Code of Conduct for Ministers is amended for staff employed by the Speaker, to the requirement to comply with the Code of Conduct for Members. The arrangements for the employment of staff set out in item 6 and item 8 of the attachment to schedule 1 to the determination are amended to include provision for *Specialist Duties Payments*.

The requirement in clause 7(2)(a) of the determination that a contract for services provided by a consultant or contractor be endorsed by the Chief Minister before execution, is amended to the Clerk for contracts entered into by the Speaker. The insurance requirements set out in clause 10.1(2) of schedule 2 to the determination are amended to accord with *Financial Management Guidelines* and *Determinations*. An *Endorsement* page is appended to schedule 2.

References in the instrument to *Certified Agreement* are changed to *Collective Agreement* and references to *delegate* and *delegated* are changed to *authorised person* and *authorised*.

Arrangements

Numbered clauses 1 to 3 of the determination contain technical provisions.

Numbered clause 4 of the determination revokes determination DI2005-290.

Numbered clause 5 of the determination sets out the purpose of the instrument is to approve arrangements under which office-holders may employ staff under section 5 of the Act, and engage consultants or contractors under section 17 of the Act.

Numbered clause 6 of the determination makes a requirement that office-holders may only employ staff under an agreement in the form provided in schedule 1 to the determination. Clause 7.1(k) of schedule 1 requiring staff of office-holders to comply with the requirements of the Code of Conduct for Ministers as varied from time to time, is amended with regard to staff employed by the Speaker who, as with the Speaker, are required to comply with the Code of Conduct for Members. The arrangements for the employment of staff set out in item 6 and item 8 of the attachment to schedule 1 are amended to include provision for *Specialist Duties Payments*. This is a new provision introduced under the *ACT Legislative Assembly Members' Staff Union Collective Agreement 2007–2010*. The collective agreement requires that the amount of any specialist duties payment, and the identified duties which attract the payment, are specified in the employee's employment agreement.

Numbered clause 7(1) of the determination makes a requirement that office-holders may only engage a consultant or contractor under an agreement in the form provided in schedule 2 to the determination. Clause 10.1(2) of schedule 2 is amended to align the determination of public liability insurance coverage with *Financial Management Guidelines* and *Determinations* as varied from time to time to provide greater flexibility.

Numbered clause 7(2)(a) of the determination requiring that a contract for services provided to an officer-holder by a consultant or contractor be endorsed by the Chief Minister, or a person authorised by the Chief Minister for that purpose, before execution is amended with regard to the Speaker. The amendment brings contracts for services provided to the Speaker by a consultant or contractor into line with agreements for the employment of staff, which require the endorsement of the Clerk, or a person authorised by the Clerk for that purpose. An *Endorsement* page is appended to schedule 2 to the determination to provide for this endorsement.

References in the determination to *Certified Agreement* are changed to *Collective Agreement*, references to *delegate* and *delegated* are changed to *authorised person* and *authorised*, to bring them in to line with current legislation.