

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2008 (No 2)

Disallowable instrument DI2008-301

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 conditions within which office-holders may exercise that authority. Such a determination is a disallowable instrument.

Outline

This Instrument revokes disallowable instrument DI2008–128 which provided conditions under which the Speaker may employ staff and engage consultants or contractors, including the annual salary allocation, for the 2008–2009 financial year.

This determination supersedes DI2008–128 and provides revised conditions under which the Speaker may employ staff and engage consultants and contractors for the specified period. The determination provides the authority for the Speaker to allocate part or all of the Speaker's uncommitted salary allocation to another member, and to receive part or all of the uncommitted salary allocation from another member.

This determination also provides the authority for the Speaker to carry over up to a maximum of 10% of the Speaker's salary allocation remaining unexpended from the 2007–2008 financial year.

Conditions

Numbered clause 2 sets the commencement of the instrument as 30 October 2008, the date of commencement of members elected to the seventh Legislative Assembly.

Numbered clause 5 revokes disallowable instrument DI2008–128 on 30 October 2008.

Numbered clause 7 sets that the conditions apply to a person while the person holds the office of Speaker during the specified period. The specified period has been amended to provide continuity in the event that the instrument is revoked after 30 June 2009. The amendment provides that the conditions determined by the instrument will cease to operate on 30 June 2009 or the date the instrument is revoked, whichever is the later. The following clauses have been amended accordingly to replace the reference to financial year with period, numbered clause 8(1), the definition for working days in clause 8(3), clause 8(4) and clause 8(5)(a).

Numbered clause 8(1) sets the condition that the Speaker 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 Speaker holds office. Numbered clause 8(1) has been amended to clarify the meaning of period and that the salary cap is an annual amount.

Numbered clauses 8(1) and 8(4) have been amended to delete reference to overtime. To remove any doubt, a note has been added to clause 8(2) to clarify that, under the existing arrangements, the amount for the annual salary allocation in the formula includes any paid overtime, but excludes the LAMS Allowance payable under the *ACT Legislative Assembly Members' Staff Union Collective Agreement 2007-2010* and, where an employee elects, the long service leave allowance and annual leave loading.

Numbered clause 8(2) sets the formula for calculating the relevant salary cap. The formula provides that the Speaker may allocate part or all of the Speaker's uncommitted salary allocation to another member, and to receive part or all of the uncommitted salary allocation from another member, in the form of a salary pledge. A note has been included to remove any doubt that if the Speaker is neither a recipient member nor a pledging member, then the amount of the salary pledge in the formula is nil.

The formula also provides for the carry over by the Speaker of unexpended salary allocation from the 2007–2008 financial year. Numbered clause 8(3) limits the carry over to no more than 10% of the Speaker's annual salary allocation for that financial year.

Numbered clause 8(3) has been amended to include definitions for the terms salary pledge, pledging member and recipient member.

Numbered clause 8(4) provides that the Speaker 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).

The Dictionary at the end of the instrument has been amended to delete reference to financial year as the applicable period is defined in numbered clause 7.