



AUSTRALIAN CAPITAL TERRITORY

Legislative Assembly (Members' Staff) Act 1989

No. 19 of 1989

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AUSTRALIAN CAPITAL TERRITORY

Legislative Assembly (Members' Staff) Act 1989

No. 19 of 1989

An Act to provide for the employment of staff by Ministers, certain office-holders and members of the Legislative Assembly

[Notified in ACT Gazette S35: 14 November 1989]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Legislative Assembly (Members' Staff) Act 1989*.

Commencement

2. This Act commences on the day on which the Act is notified in the *Gazette*.

Interpretation

3. In this Act, unless the contrary intention appears—

“administrative unit” means an administrative unit into which the Public Service is divided pursuant to paragraph 54 (2) (a) of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;

“Assembly” means the Legislative Assembly;

“office-holder” means—

- (a) a Minister;
- (b) the Speaker of the Assembly; or
- (c) a person in respect of whom a determination by the Chief Minister under section 4 is in force;

“pensioner” means—

- (a) a person to whom an invalidity pension within the meaning of the *Superannuation Act* is payable or would, but for the pension having been suspended, be payable; or
- (b) a person to whom a pension under the *Superannuation Act 1922* of the Commonwealth is payable or would, but for the pension having been suspended, be payable, being a person who was retired on the ground of invalidity or of physical or mental incapacity to perform the person's duties;

“Superannuation Act” means the *Superannuation Act 1976* of the Commonwealth.

PART II—STAFF OF OFFICE-HOLDERS**Determinations by Chief Minister**

4. The Chief Minister may, by writing, determine that, having regard to the parliamentary duties of a member of the Assembly, the member ought to be empowered to employ staff under this Part.

Office-holders may employ staff

5. (1) An office-holder may, on behalf of the Territory, employ, under an agreement in writing, a person as a member of the office-holder's staff.

(2) The power conferred on an office-holder by subsection (1) is not exercisable otherwise than in accordance with arrangements approved by the Chief Minister, and the exercise of that power is subject to such conditions as are determined by the Chief Minister.

Terms and conditions of employment

6. (1) Subject to any applicable determination made under subsection (2), the terms and conditions of employment of a person employed by an office-holder under this Part, other than terms and conditions (in this section referred to as “prescribed terms and conditions”) relating to any matter in relation to which—

- (a) a determination is to be made by the office-holder under section 7; or
- (b) express provision is made by section 8;

are the same as the terms and conditions applicable in relation to an officer performing the duties of an office in the Australian Public Service having a classification specified in the agreement for the employment of the person.

(2) The Chief Minister may by writing determine that the terms and conditions of employment of a person employed under this Part (other than prescribed terms and conditions) are varied (whether by the variation of particular terms and conditions or by the inclusion of new terms and conditions, not being prescribed terms and conditions) as specified in the determination.

(3) A determination under subsection (2) may be expressed to apply in relation to all persons employed under this Part, in relation to all persons included in a class of persons so employed or in relation to a specified person so employed.

Superannuation

7. (1) In this section, “relevant person” means a person other than—

- (a) a person who, immediately before being employed under this Part, was an eligible employee within the meaning of the Superannuation Act; or
- (b) a pensioner.

(2) An agreement under section 5 for the employment by an office-holder of a relevant person as a member of the office-holder’s staff may contain provisions determined by the office-holder in relation to the provision to the person of superannuation benefits or benefits in the nature of superannuation benefits.

(3) An office-holder is not empowered to determine provisions for the purposes of subsection (2) except in accordance with arrangements approved by the Chief Minister.

Termination of employment

8. (1) The employment of a person under this Part terminates if the office-holder by whom the person was employed dies.

(2) The employment of a person under this Part terminates if—

- (a) in the case of a person employed by an office-holder—the office-holder ceases to hold office; or
- (b) in the case of a person employed by a member of the Assembly in respect of whom a determination by the Chief Minister under section 4 is in force—the member ceases to be a member of the Assembly or the determination is revoked.

(3) For the purposes of paragraph (2) (b), a member of the Assembly shall be deemed not to have ceased to be such a member while he or she continues to be entitled to an allowance that was payable to him or her as such a member.

(4) An office-holder may at any time, by notice in writing given to a person employed by the office-holder under this Part, terminate the person's employment.

(5) A person employed by an office-holder under this Part may at any time, by notice in writing given to the office-holder, terminate the person's employment.

(6) Where the employment of a person under this Part is terminated by subsection (1) or (2), the Chief Minister may by writing direct that the employment of the person shall be deemed—

- (a) not to have been so terminated; and
- (b) to have continued, or to continue, until a specified date;

and, where the Chief Minister so directs, the employment of the person under this Part shall for all purposes be deemed to have continued, or to continue, until that date.

Power to employ staff not affected

9. Nothing in this Part affects the power of an office-holder who is a member of the Assembly to employ staff under Part III.

PART III—STAFF OF MEMBERS

Members may employ staff

10. (1) A member of the Assembly may, on behalf of the Territory, employ, under an agreement in writing, a person as a member of the staff of the member.

(2) The power conferred on a member of the Assembly by subsection (1) is not exercisable otherwise than in accordance with arrangements approved by the Chief Minister, and the exercise of that power is subject to such conditions as are determined by the Chief Minister.

Terms and conditions of employment

11. (1) Subject to any applicable determination made under subsection (2), the terms and conditions of employment of a person employed by a member of the Assembly under this Part, other than terms and conditions (in this section referred to as “prescribed terms and conditions”) relating to any matter in relation to which—

- (a) a determination is to be made by the member under section 12; or
- (b) express provision is made by section 13;

are the same as the terms and conditions applicable in relation to an officer performing the duties of an office in the Australian Public Service having a classification specified in the agreement for the employment of the person.

(2) The Chief Minister may by writing determine that the terms and conditions of employment of a person employed under this Part (other than prescribed terms and conditions) are varied (whether by the variation of particular terms and conditions or by the inclusion of new terms and conditions, not being prescribed terms and conditions) as specified in the determination.

(3) A determination under subsection (2) may be expressed to apply in relation to all persons employed under this Part, in relation to all persons included in a class of persons so employed or in relation to a specified person so employed.

(4) A determination under subsection (2) shall be tabled in the Assembly on the first sitting day after the date of that determination.

Superannuation

12. (1) In this section, “relevant person” means a person other than—

- (a) a person who, immediately before being employed under this Part, was an eligible employee within the meaning of the Superannuation Act; or
- (b) a pensioner.

(2) An agreement under section 10 for the employment by a member of the Assembly of a relevant person as a member of the staff of the member may contain provisions determined by the member in relation to the provision to the person of superannuation benefits or benefits in the nature of superannuation benefits.

(3) A member of the Assembly is not empowered to determine provisions for the purposes of subsection (2) except in accordance with arrangements approved by the Chief Minister.

Termination of employment

13. (1) The employment of a person under this Part terminates if the member of the Assembly by whom the person was employed—

- (a) dies; or
- (b) ceases to be a member of the Assembly.

(2) For the purposes of paragraph (1) (b) a member of the Assembly shall be deemed not to have ceased to be such a member while he or she continues to be entitled to an allowance that was payable to him or her as such a member.

(3) A member of the Assembly may at any time, by notice in writing given to a person employed by the member under this Part, terminate the person's employment.

(4) A person employed by a member of the Assembly under this Part may at any time, by notice in writing given to the member, terminate the person's employment.

(5) Where the employment of a person under this Part is terminated by subsection (1), the Chief Minister may, by writing direct that the employment of the person shall be deemed—

- (a) not to have been so terminated; and
- (b) to have continued, or to continue, until a specified date;

and, where the Chief Minister so directs, the employment of the person under this Part shall for all purposes be deemed to have continued, or to continue, until that date.

PART IV—MISCELLANEOUS

Powers may be exercised by authorised person

14. An office-holder or member of the Assembly may, in writing, authorise another person to exercise, on his or her behalf, a power conferred on the office-holder or member by Part II or III, and a person so authorised may exercise the power accordingly.

Regulations

15. The Executive may make regulations, not inconsistent with this Act prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[Presentation speech made in Assembly on 27 July 1989.]