

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2021 (No 1)

Disallowable instrument DI2021-135

made under the

Legislative Assembly (Members' Staff) Act 1989, s 5 (3) (Office-holders may employ staff) and s 17 (4) (Office-holders may engage consultants and contractors)

1 Name of instrument

This instrument is the *Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2021 (No 1)*.

2 Commencement

This instrument is taken to have commenced on 1 July 2021.

3 Dictionary

The dictionary at the end of this instrument is part of this instrument.

Note 1 The dictionary at the end of this instrument defines certain terms used in this instrument.

Note 2 A definition in the dictionary applies to the entire instrument unless the definition, or another provision of the instrument, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 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.

5 Revocation

Instrument DI2020-150 is revoked.

6 Determination for Act, s 5 and s 17

This instrument determines conditions subject to which the Speaker may, on behalf of the Territory, hire staff, contractors or consultants under the Act, section 5 or section 17.

7 Application during the period

The conditions determined by this instrument apply to a person holding the office of Speaker while the person holds the office for a period or periods (the *period or periods of office*) within the time beginning on the day this instrument commences and ending on 30 June 2022 or the date this instrument is revoked, whichever is the later.

8 Salary cap

- (1) The Speaker may, on behalf of the Territory, hire staff, consultants or contractors for a term that includes the period or periods of office only while the total amount payable for salary and payments, to all staff, consultants and contractors under the Speaker's hire while the Speaker holds office during the period, does not exceed the amount (the *salary cap*) worked out in accordance with the formula in subclause (2).
- (2) The formula for working out the salary cap is—

$$\text{salary cap} = \frac{\$273,800 \times \text{working days}}{261} + \text{carry over} \pm \text{salary pledge}$$

Note 1 If the Speaker is neither a **recipient member** nor a **pledging member** the amount of the **salary pledge** in the above formula is nil.

Note 2 The salary amount in the above formula includes any paid overtime, but excludes the LAMS allowance payable to employees employed under the applicable enterprise agreement and, where an employee elects, the long service leave allowance and annual leave loading.

- (3) In subclause (2):

carry over means the Speaker's unexpended salary allocation, if any, carried over from the 2020–2021 financial year. The carry over cannot exceed 10% of the Speaker's annual salary allocation for the 2020–2021 financial year.

pledging member means the member who makes the salary pledge.

recipient member means the member who receives the salary pledge.

salary pledge means in the case of a pledging member that part of a pledging member's uncommitted salary allocation which is pledged to a recipient member and that is to be deducted from the salary cap and in the case of a recipient member the total of salary pledges made to the member and that is to be added to the salary cap.

working days means the number of working days the Speaker holds office in the period.

- (4) Despite subclause (1), an amount payable for salary to a staff member for a period of leave may be excluded from the total amount payable for salary determined in accordance with subclause (1) if —

- (a) an employee on the Speaker's staff takes, or is to take, a period of paid leave exceeding 4 continuous weeks during the period; and
 - (b) the Speaker hires, or is to hire, a replacement employee, contractor or consultant during the employee's absence on paid leave; and
 - (c) the requirement for leave is beyond the Speaker's control; and
 - (d) the Speaker would be, or would have been, unable to exercise his or her functions as Speaker without hiring the replacement during the employee's absence on paid leave.
- (5) An amount may only be excluded from the Speaker's salary cap under subclause (4) if the Clerk of the Legislative Assembly is satisfied that all of the conditions set out in subclause (4) have been met.

Dated 16 June 2021.

Andrew Barr
Chief Minister

Dictionary

(see cl 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this instrument.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- function
- working day.

hire, in relation to an employee on the Speaker's staff, or a contractor or a consultant, means—

- (a) employ the employee; or
- (b) engage the contractor or consultant.

period or periods of office—see clause 7.

salary cap—see clause 8 (1).