

Legislative Assembly (Members' Staff) Member's Salary Cap Determination 2004 (No 2)

Disallowable instrument DI2004-124

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

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 DI2004-33 which was notified on 22 March 2004 ("DI2004-33"). The purpose of DI2004-33 was to provide revised conditions under which members may employ staff and engage consultants or contractors for the 2003-2004 financial year.

This determination provides interim conditions under which members may employ staff and engage consultants and contractors from 1 July 2004, pending finalisation of a replacement certified agreement for staff employed under the Act. The annual salary allocations stated for the relevant positions in schedule 1 to this determination incorporate the recently agreed pay increases for benchmark classifications in the ACT Public Service.

This determination also provides a separate allocation for the payment to staff for overtime worked while the member holds the relevant position during the 2004-2005 financial year. The annual overtime allocation has been calculated in accordance with the 2003-2004 certified agreement as 7% of the respective annual salary allocation.

Conditions

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 (excluding overtime) do not exceed the prescribed salary cap while the member holds the relevant position during the 2004–2005 financial year.

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 where a member is unable to perform his or her parliamentary duties because of the need to replace an employee who is on a period of paid leave exceeding four (4) continuous weeks during the financial year and the requirement for the leave is beyond the member's control. The types of absences for which this arrangement might apply include:

- paid maternity leave;
- workers compensation (including graduated return to work);
- long service leave; and
- sick leave.

Numbered clause 9(1) provides that a member may authorise staff to work overtime only while the total amount payable (including amounts payable as back pay) to all staff, while the member holds the relevant position during the 2004–2005 financial year, does not exceed the prescribed overtime cap.