

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

Disallowable instrument DI2004-134

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 DI2004-32 which was notified on 22 March 2004 ("DI2004-32"). The purpose of DI2004-32 was to provide revised conditions under which the Speaker may employ staff and engage consultants or contractors for the 2003-2004 financial year.

This determination provides interim conditions under which the Speaker 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 allocation stated in the salary cap formula to this determination incorporates 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 Speaker holds office 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 annual salary allocation.

Conditions

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

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 where the Speaker 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 Speaker'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 the Speaker may authorise staff to work overtime only while the total amount payable (including amounts payable as back pay) to all staff, while the Speaker holds the office during the 2004–2005 financial year, does not exceed the prescribed overtime cap.