

Replacement Copy

(In substitution for copy presented to Assembly on 4 November 2004)

Australian Capital Territory

Legislative Assembly (Members' Staff) Members' Hiring Arrangements Approval 2004 (No 1)

Disallowable instrument DI2004-230

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 the following Disallowable Instrument:

- DI2003-317 of 4 December 2003 ("DI2003-317").

The purpose of DI2003-317 was to amend the variable terms and conditions of employment specified in the employment agreement for staff of members consistent with the *ACT Legislative Assembly Members' Staff Certified Agreement 2003-2004*, following endorsement of the certified agreement by a valid majority of eligible staff. The certified agreement provided for the replacement of the extra duty/electoral allowance with paid overtime or time off in lieu. The amendment was to delete the extra duty/electoral allowance and to simplify the employment agreement. As most of the terms and conditions of employment of members' staff are regulated by the certified agreement, there is no longer a requirement for these terms to be provided by determination.

The current arrangements for the employment of staff by members, set out in schedule 1 to the determination, are being re-made to bring them into line with the replacement certified agreement for 2004-2007, which has now been agreed to by unions and staff. The new certified agreement provides for the maintenance, by all staff, of records of attendance for duty and absence from duty in an agreed form. The amendment removes the discretion currently available to members to exempt certain staff from maintaining records of attendance.

The current arrangements for the engagement of contractors and consultants by members, set out in schedule 2 to the determination, are also being re-made to bring them into line with the new pro-forma contract issued by the Government Solicitors Office.

Arrangements

Numbered clauses 1 to 4 contain technical provisions.

Numbered clause 5 revokes determination DI2003-317.

Numbered clause 6 sets out that the purpose of the determination is to approve new arrangements in accordance with which members may, employ staff under section 10 of the Act, and engage consultants or contractors under section 20 of the Act.

Numbered clause 7 makes a requirement that members may only employ staff under an agreement in the form provided in schedule 1 to the determination.

Numbered clause 8(1) makes a requirement that members may only engage a consultant or contractor under an agreement in the form provided in schedule 2 to the determination.

Numbered clause 8(2) requires that a contract for services to be provided by a consultant or contractor be endorsed by the clerk, or his or her delegate, before execution; and that the contract represent value for money for the Territory.