

Australian Capital Territory

# Legislative Assembly (Members' Staff) Member's Salary Cap Determination 2005 (No 1)

Disallowable instrument DI2005-147

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

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### 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 DI2004–124. The purpose of DI2004–124 was to provide interim conditions under which members may employ staff and engage consultants or contractors from 1 July 2004 pending the finalisation of a replacement certified agreement for staff employed under the Act.

This determination provides conditions under which members may employ staff and engage consultants and contractors for the 2005–2006 financial year. Schedule 1 to this determination sets out the annual salary and overtime allocations by position. These allocations incorporate the pay increase to be paid to staff from 1 April 2006 under the *ACT Legislative Assembly Members' Staff Certified Agreement 2004–2007* ("the Agreement").

The determination provides a separate allocation for the payment to staff for overtime worked. The allocation for overtime has been calculated in accordance with the Agreement as 7% of the respective annual salary allocation.

This determination also provides authority for the carry over of up to a maximum of 10% of a members' 2004–2005 salary allocation remaining unexpended.

## Conditions

Numbered clause 2 sets the commencement of the instrument as 1 July 2005.

Numbered clause 5 revokes disallowable instrument DI2004–124.

Numbered clause 7(1) sets that the conditions apply to a member while the member holds a position listed in schedule 1 to the instrument during the 12-month period ending on 30 June 2006.

Numbered clause 7(2) sets that where a member holds two or more positions during this period, the conditions that apply to the period the member holds each relevant position will be considered separately.

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 2005–2006 financial year.

Numbered clause 8(2) sets the formula for calculating the relevant salary cap. The formula provides for the carry over by a member of unspent salary allocation from the 2004–2005 financial year. Numbered clause 8(3) limits the carry over to no more than 10% of the member's annual salary allocation for that 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 set out in numbered clause 8(5).

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 2005–2006 financial year, does not exceed the prescribed overtime cap. Numbered clause 9(2) sets the formula for calculating the relevant overtime cap.

Schedule 1 sets the annual salary and overtime allocations for the relevant positions covered by the determination.