

EXPLANATORY STATEMENT

PUBLIC SECTOR MANAGEMENT AMENDMENT STANDARD 2005 (No 9) DISALLOWABLE INSTRUMENT NO DI2005 -221

Public Sector Management Act 1994

Legislative Context

The *Public Sector Management Act 1994* (the Act) regulates the management of the public sector. Section 251 of the Act empowers the Commissioner, with the written approval of the Chief Minister, to make Public Sector Management Standards (the Standards) for the purposes of the Act.

Outline

Standard 3 deals with terms and conditions of employment for ACT public servants. The amendments to Standard 3 incorporate certain leave and associated entitlements from the Template Agreement of Core Conditions to the Standards. The Template Agreement was negotiated during the 4th round of enterprise bargaining in the ACT Public Service (ACTPS) and includes a set of core conditions for staff in the administrative, professional, technical, general service officer and ambulance classifications. The inclusion of certain Template Agreement leave conditions in the Standards apply the conditions to Chief Executives and Executives, who are not covered by an enterprise bargaining agreement.

Other amendments are made to Standard 2, for terms and conditions of employment for Executives and the Clerk of the Legislative Assembly.

Other consequential changes are made to Standards 2 and 3, including grammatical and technical changes, as a result of the amendments to the Standards and to clarify existing provisions in the Standards.

The amendment to Standard 2 (Part 1 Rule 3) clarifies the personal leave conditions that apply to staff on temporary Chief Executive and Executive contracts. For personal leave purposes, an officer, Chief Executive or Executive on a temporary Chief Executive or Executive contract has the same personal leave conditions as an officer. Consistent with arrangements for temporary employees, persons on temporary Chief Executive or Executive contracts with less than 12 months continuous service have the same conditions as a temporary employee.

The amendment to Standard 2 (Part 1 Rule 3) also clarify that the recreation leave provisions, except for deeming in Standard 3 Part 17 Rule 11, apply to Chief Executives and Executives.

The amendment to Standard 2 (Part 1 Rule 9) provides that, in accordance with section 47(1) of the Act, the leave conditions for the Clerk of Legislative Assembly are the same as those of a Chief Executive. In accordance with section 47(2) of the Act, this excludes the remuneration and allowances payable to the Clerk in respect of his or her leave of absence. This amendment also removes reference to outdated arrangements.

The amendment to Standard 3 (Part 11 Rule 5) applies the existing entitlement for expenses on cancellation of leave in the Standards to Chief Executive and Executives, as this entitlement is available under the Template Agreement.

New Rules 6 and 7 in Standard 3 Part 11 are inserted to reflect Template Agreement conditions relating to the vacation child program and family care costs and apply these conditions to Chief Executives and Executives.

The amendment to Standard 3 (Part 17 Rule 1) removes the application section and replaces with an interpretation section to clarify that the rule applies to employees, which include under the Act, Chief Executives and Executives. Further the previous rule, which applied the rule for payments to dependents on death, is covered in existing Rule 15 (Standard 3 Part 17).

The amendment to Standard 3 (Part 17 Rule 4) includes certain Template Agreement conditions relating to recreation leave, including the use of recreation leave at half-pay and provisions supporting the use of recreation leave. The Rule is also re-formatted to insert headings that better reflect the content of the sub-rules.

The amendment to Standard 3 (Part 17 Rule 11) provides that this Rule relating to deeming does not apply to Chief Executives and Executives.

The amendment to Standard 3 (Part 18 Rule 2) updates the definition of immediate family to reflect the Template Agreement definition and inserts definitions of accumulative personal leave, non-accumulative personal leave and temporary employee for clarity. The amendments also remove references to outdated information, as personal leave conditions are derived from the Standards, Employment Conditions Australian Capital Territory Public Sector Award 2000 and enterprise bargaining agreements.

The amendment to Standard 3 (Part 18 Rule 3) updates the amount of personal leave in accordance with the Template Agreement. The amendment also clarifies, in accordance with the Employment Conditions Award, that part-time staff receive a pro-rata credit of personal leave.

The amendment to Standard 3 (Part 18 Rule 4) clarifies that the bereavement provisions apply to officers (including Chief Executives and Executives) and temporary employees. The parent of a domestic partner is removed from the list of discretionary granting of bereavement leave as they are now included in the definition of immediate family. The amendment also includes the ability to grant additional bereavement leave in accordance with the entitlement under the Template Agreement, and that bereavement leave counts for service and is not deducted from an officer's personal leave credit.

The amendment to Standard 3 (Part 18 Rule 6) updates personal leave entitlements in accordance with the Template Agreement and removes the existing limitation on the number of personal leave days that can be used to care for an employee's immediate family or household, and increases the number of days that can be taken without a medical certificate. Further, the changes allow for the acceptance of medical certificates from all providers and in special circumstances the approval of personal leave at half-pay.

New Rule 6b (Standard 3 Part 18) is inserted to provide for personal leave in special circumstances in accordance with the Template Agreement. This replaces existing arrangements for special leave under Rule 23 (Standard 3 Part 21).

The amendment to Standard 3 (Part 18 Rule 7) removes references to outdated conversion of half-pay personal leave provisions that are no longer relevant, as these amendments remove the annual grant of half-pay personal leave and replace with a grant of full pay personal leave. The amendment allows Chief Executives to convert existing half-pay credits to full pay credits.

The amendment to Standard 3 (Part 18 Rule 10), consistent with amendments to Standard 2 (Part 1 Rule 3) clarifies the personal leave conditions that apply to staff on temporary Chief Executive and Executive contracts. The amendment also provides that the new arrangements in Rule 6b in Standard 3 Part 18 do not apply to temporary employees with less than 12 months service. This is consistent with existing arrangements for special leave under Rule 23 (Standard 3 Part 21).

The amendment to Standard 3 (Part 21 Rule 2) updates the definition of immediate family to reflect the Template Agreement definition.

The amendment to Standard 3 (Part 21 Rule 21) provides timeframes around the commencement of primary care givers' leave consistent with the Template Agreement. The amendment also inserts provision for paid bonding leave in Rule 21.2 (to replace unpaid paternity leave) consistent with the Template Agreement.

Rule 23 (Standard 3 Part 21), leave in special circumstances, is revoked and replaced by personal leave in special circumstances under new Rule 6b (Standard 3 Part 18).

New Rules 27 and 28 (Standard 3 Part 21) are inserted to incorporate Template Agreement conditions relating to purchased leave and Christmas shutdown.

New Part 22 is also inserted to provide for other conditions, including a new Rule relating to part-time work following maternity or parental leave consistent with the Template Agreement.

Financial Impact

Any financial impact will be absorbed by agencies.