EXPLANATORY STATEMENT

DETERMINATION MADE UNDER SECTION 6(2) OF THE
Legislative Assembly (Members' Staff) Act 1989

TERMS AND CONDITIONS OF EMPLOYMENT OF STAFF
OF OFFICE-HOLDERS 2002 (No 2)

Instrument No. DI2002-211

Legislative Context

The *Legislative Assembly (Members' Staff) Act 1989* ("the Act") provides for the employment of staff by members of the Legislative Assembly. Subsection 5(1) of the Act gives the authority for office-holders to employ staff. Subsection 6(2) of the Act provides that the Chief Minister may determine the variable terms of employment of office-holders' staff.

Outline

Determination 124 of 2002 amended the variable terms and conditions of employment of staff employed by office-holders under Part 2 of the Act. These changes were the inclusion of a provision for the payment to all employees of an extra duty/electoral allowance in place of the previous discretionary payment of overtime.

This Determination revokes Determination 124 of 2002 and puts in place new terms and conditions of employment. These terms and conditions include provision for the payment of overtime or access to time off in lieu of extra hours worked, in addition to the extra duty/electoral allowance, subject to the agreement of the relevant office-holder.

Other minor amendments have been made to the Schedule to the Determination. These amendments, which are largely technical nature, are detailed under "other changes" below.

Terms and Conditions

This Determination establishes the variable terms and conditions of employment of staff employed by office-holders under Part 2 of the Act. These terms and conditions are set out in the Schedule to the Determination. The Schedule comprises the terms and conditions of employment and the Contract of Employment which is set out in the Attachment to the Schedule.

This Determination amends the variable terms and conditions of employment of staff by providing access to overtime payments and time off in lieu where:

- an employee works more than five additional hours in a fortnight; and

- the relevant office-holder agrees in writing; and

- suitable records of attendance are maintained.

<u>Other Changes</u>

The following minor amendments have been made to the Schedule to the Determination:

1. Extra Duty/Electoral Allowance

Paragraph 3(b) of the Schedule to the Determination, pertaining to the payment of the allowance in lieu of overtime and time off in lieu is deleted, as this no longer applies.

Paragraph 3(c) of the Schedule to the Determination is renumbered as 3(b), and references to the number of working days and the method of calculating pro-rata payment of the allowance are deleted, as they do not provide for circumstances where the period of the Agreement exceeds 261 working days. Clause 8.1 of the Contract of Employment has been similarly altered.

2. Hours of Work

A new paragraph 13(b) has been added the Schedule to the Determination to provide flexibility in the daily start and finish times for part-time employees at the discretion of the relevant office-holder. Clause 11.3 of the Contract of Employment has been amended accordingly.

3. Remuneration

The reference to "gross fortnightly" salary has been changed to "annual" salary in clause 7.1 of the Contract of Employment and in Item 5 of the Schedule to the Contract of Employment to clarify the basis of the term "gross annual" salary used in the Schedule to the Determination. The note to Item 5 has also been expanded to more accurately reflect excluded payments.

4. Employee Undertakings

Clause 5.1(b) of the Contract of Employment has been amended to exclude "spent offences" in accordance with the *Spent Convictions Act 2000*.

5. General

The relevant Schedules attached to the Determination have been re-titled to more clearly distinguish between them.

Relevant paragraphs and clauses, and corresponding cross-references, have been re-numbered as necessary. Additional cross-references have been included where appropriate.

Some minor grammatical corrections have also been made.