Australian Capital Territory

Legislative Assembly (Members' Staff) Members' Salary Cap Determination 2011 (No 2)

Disallowable instrument DI2011-140

Legislative Assembly (Members' Staff) Act 1989, s 10 (3) (Members may employ staff) and s 20 (4) (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(3) and 20(4) 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 DI2011-52 which provided conditions under which members may employ staff and engage consultants or contractors, including annual salary allocations, for the 2010–2011 financial year.

The determination provides revised conditions under which members may employ staff and engage consultants or contractors, including interim salary allocations for the 2011-2012 financial year. Schedule 1 to the determination sets out the salary allocations by position. The interim salary allocations for 2011-2012 have been set at the same level as the 2010-2011 allocations pending the outcome of negotiations for a replacement enterprise agreement.

The determination provides the authority for a member to allocate part or all of the member's uncommitted salary allocation to another member, and to receive part or all of the uncommitted salary allocation from another member.

The determination also provides the authority for a member to carry over up to a maximum of 10% of the member's salary allocation remaining unexpended from the 2010–2011 financial year.

Conditions

Numbered clause 2 sets the commencement of the instrument as 1 July 2011.

Numbered clause 5 revokes disallowable instrument DI2011-52.

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 specified period.

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 do not exceed the prescribed salary cap while the member holds the relevant position.

Numbered clause 8(2) sets the formula for calculating the relevant salary cap. The formula provides that individual members may allocate part or all of the member's uncommitted salary allocation to another member, and to receive part or all of the uncommitted salary allocation from another member, in the form of a salary pledge.

The formula also provides for the carry over by a member of unexpended salary allocation from the 2010–2011 financial year. Numbered clause 8(3) limits the carry over to no more than 10% of the member's annual salary allocation for the 2010–2011 financial year. To remove any doubt about the applicable carry over in the circumstance where a member moves from one relevant position to another during the period, the clause also stipulates the carry over, if any, is that which exists in respect of the relevant position to which the member has moved.

Numbered clause 8(4) provides that a member may, with the written agreement of the Chief Minister, hire staff and consultants and contractors outside the salary cap in certain circumstances. These circumstances are set out in numbered clause 8(5).

Schedule 1 sets the interim salary allocations for the relevant positions covered by the determination for the 2011–2012 financial year pending the outcome of negotiations for a replacement enterprise agreement.