

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2011 (No 3)

Disallowable instrument DI2011-334

Legislative Assembly (Members' Staff) Act 1989, s 5 (3) (Office-holders may employ staff) and s 17 (4) (Office-holders 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 office-holders (Ministers and "the Speaker") of the Legislative Assembly.

Subsections 5(1) and 17(1) of the Act give office-holders the authority to employ staff, and engage consultants and contractors, respectively. Subsections 5(3) and 17(4) provide for the Chief Minister to determine in writing the conditions within which office-holders may exercise that authority. Such a determination is a disallowable instrument.

Outline

This Instrument revokes disallowable instrument DI2011-141 which provided conditions under which the Speaker may employ staff and engage consultants or contractors, including an interim salary allocation for the 2011-2012 financial year pending finalisation of an enterprise agreement for staff employed under the Act.

An enterprise agreement has now been approved. The enterprise agreement provides for a pay increase to staff of 3.5% with effect from 18 August 2011. This instrument determines new conditions which provide for this increase in staff salaries for the 2011-2012 financial year.

The new allocation is expressed to operate retrospectively as the pay increase applies from 18 August 2011. The retrospective effect of the commencement provision contained in this instrument has a non-prejudicial effect on persons other than the Territory or a territory authority.

Conditions

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

Numbered clause 5 revokes disallowable instrument DI2011–141.

Numbered clause 7 sets that the conditions apply to a person while the person holds the office of Speaker during the specified period.

Numbered clause 8(1) sets the condition that the Speaker 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 Speaker holds office.

Numbered clause 8(2) sets the formula for calculating the relevant salary cap. The formula contains the new salary allocation for the 2011-2012 financial year. The formula provides that the Speaker may allocate part or all of the Speaker'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 the Speaker 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 Speaker's annual salary allocation for the 2010-2011 financial year.

Numbered clause 8(4) provides that the Speaker 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).