

Legislative Assembly (Members' Staff) Members' Salary Cap Determination 2016 (No 1)

Disallowable instrument DI2016-111

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 DI2015-242 which provided conditions under which members may employ staff and engage consultants or contractors, including salary allocations for the 2015–2016 financial year. The instrument determines new allocations for 2016-2017 to operate from 1 July 2016.

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 2015–2016 financial year.

Conditions

Numbered clause 2 sets the commencement of the instrument as 1 July 2016.

Numbered clauses 3 and 4 contain technical provisions.

Numbered clause 5 revokes disallowable instrument DI2015-242.

Numbered clause 6 sets that the instrument determines the conditions that apply to the hire, by members, of staff, contractors and consultants under the Act.

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. The specified period commences on 1 July 2016 and ends on 30 June 2017, or the date on which the instrument is revoked, whichever is the later.

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 salary cap, while the member holds the relevant position, worked out in accordance with the prescribed formula.

Numbered clause 8(2) sets the formula for calculating the relevant salary cap during the specified period. 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 2015–2016 financial year. Numbered clause 8(3) limits the carry over to no more than 10% of the member's annual salary allocation for the 2015–2016 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 an amount payable for salary to a staff member for a period of leave may be excluded from a member's salary cap where specified conditions are met. Subclauses (a) to (d) set out the specified conditions.

Numbered clause 8(5) requires that an amount may only be excluded from a member's salary cap if the Clerk of the Legislative Assembly is satisfied that all of the specified conditions have been met.

Schedule 1 sets the new salary allocations for the relevant positions covered by the determination. The salary amounts are provided in two parts, corresponding to the periods from 1 July 2016 to 15 October 2016 (polling day), and from 16 October 2016 to 30 June 2017.