

**INSTRUMENT NO. 65 OF 1998**

**EXPLANATORY MEMORANDUM**

**Determination made under subsection 11(2)**

***Legislative Assembly (Members' Staff) Act 1989***

**Legislative Context**

The Legislative Assembly (Members' Staff) Act 1989 (the Act) provides for the employment of staff by Members of the Legislative Assembly on behalf of the Territory. Section 11 of the Act provides for the terms and conditions to be generally the same as those applying to ACT public servants except where the Chief Minister Determines otherwise under subsection 11(2). Subsection 11(2) provides the power for the Chief Minister to determine in writing that the terms and conditions of employment are varied as specified in the Determination.

**Outline**

This Determination deals with the form of contract of employment required to be signed by staff who were employed under the Act prior to 1 July 1997.

Determination No 4 of 1997 provided that staff who were employed prior to 1 July 1997 were not required to sign the new Contract of Employment attached to Determination No 1 or No 4 of 1997 and, if they wished staff could continue to be employed on the same terms as the subsection 10(1) agreement they signed previously as varied by schedule 1 of Determination No 4 of 1997.

Advice has been received that following the Election in February 1998 staff will be terminated in accordance with section 13 of the Act and staff re-engaged under new contracts of employment. Advice is also that the new Contract of Employment would be required to be signed for all staff and the section 10(1) agreement could not be used. This outcome would be contrary to the policy position taken in relation to existing staff in Determination No 4 of 1997.

Consistent with that position the Chief Minister's new Determination provides that, provided they are employed continuously, staff who chose not to sign the new Contract of Employment will be able to be re-engaged under a section 10(1) agreement which was in place prior to 1 July 1997.