

**Instrument NO. 137 OF 1997**

**EXPLANATORY MEMORANDUM**

**Determination made under sub-section 6(2) - 1/1997**

*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 6 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 6(2). Sub-section 6(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 varies the terms and conditions currently applying to staff employed under the Act and underpins new employment arrangements sought by Members of the Legislative Assembly.

Schedule 1 of this Determination revokes the previous determinations which applied to staff under the Act. The Determinations revoked covered

- records of attendance,
- special recreation leave,
- part-time employment,
- SES bonus in lieu of any performance based pay,
- severance pay benefits,
- Senior Officer Grade A,B,C ACTGS equivalent,
- Senior Officer Grade A,B,C Annual Allowance, and
- Public Affairs stream - annual allowance

Schedule 2 of this Determination provides the terms and conditions of employment which vary from those applying to ACT public servants with effect from 1 July 1997. An explanation of each clause of Schedule 2 is provided below.

Clause 1 provides for the use of a contract of employment.

Clause 2 provides for the negotiation of gross salary and introduces flexible remuneration packaging

Clause 3 changes the current arrangements for payment for extra duty. Extra Duty will now only be available if provided for in the contract of employment.

Clause 4 provides an entitlement to annual leave loading only when provided for in the contract of employment. In all cases where a loading is provided for it will be annualised and paid fortnightly.

Clause 5 provides that staff who are not already members of a superannuation fund managed by the Commonwealth may elect to have the employer superannuation contribution paid to an approved private superannuation fund

Clause 6 requires the maintenance of records of attendance.

Clause 7 provides the severance benefits payable to staff if their services are terminated. It provides a bar on re-employment during the period for which staff have received a benefit or for the repayment of the severance benefit or a proportion thereof to enable re-employment. This addresses concerns regarding 'double dipping' in relation to public employment

Clause 8 provides that staff may elect to either accrue long service leave or receive payment in lieu of accrual

Clause 9 provides that duties will be in accordance with the contract of employment

Clause 10 puts into place arrangements regarding exclusivity of employment

Clause 11 provides that hours of duty will be in accordance with the contract of employment.

Clause 12 provides that the contract of employment will be reviewed in accordance with the arrangements in the contract of employment

Clause 13 provides arrangements for suspension and discipline

Clause 14 puts into place arrangements regarding disclosure of information.

Clause 15 provides that any disputes about matters provided for in the contract of employment will be resolved in the manner described in the contract of employment.

Attachment A to this Determination is the form of contract of employment which is required to be used by Members in engaging staff employed under the Act