Instrument NO. 138 OF 1997

EXPLANATORY MEMORANDUM

Determination made under sub-section 11(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 11 of the Act provides for the terms and conditions to generally be the same as those applying to ACT public servants except where the Chief Minister determines otherwise under subsection 11(2) Sub-section 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 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.

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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 of 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 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

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