

Australian Capital Territory

Integrity Commission (Chief Executive Officer) Appointment 2019 (No 1)

Notifiable instrument NI2019–654

made under the

Integrity Commission Act 2018, section 41 (CEO–appointment)

1 Name of instrument

This instrument is the *Integrity Commission (Chief Executive Officer) Appointment 2019 (No 1)*.

2 Commencement

This instrument commences on 28 October 2019.

3 Appointment

I appoint John Hoytink to be the Chief Executive Officer of the ACT Integrity Commission.

4 Term of Appointment

This appointment commences on 28 October 2019 and ends on 27 October 2026.

5 Conditions of Appointment

The conditions of appointment of the Chief Executive Officer are set out in the Conditions of Appointment.

Dennis Cowdroy AO QC
ACT Integrity Commissioner

Date: 11 / 10 / 2019

Conditions of Appointment

Chief Executive Officer, ACT Integrity Commission

John Hoytink

(Appointee)

Operation and Application

1. The terms and conditions of the Appointee's appointment are regulated by:-
 - (a) these Conditions of Appointment;
 - (b) the Act;
 - (c) the *Remuneration Tribunal Act 1995*; and
 - (d) other applicable laws of the Territory.
2. The Appointee acknowledges that no oral understandings or promises have been given by the Appointer.

Definitions

3. In these Conditions of Appointment the following words have the following meanings, unless a contrary intention appears:
 - (a) "Act" means the *Integrity Commission Act 2018*, as amended from time to time;
 - (b) "Appointee" means the natural person specified in Item 1 of *Schedule A*, being a person performing the duties of the Chief Executive Officer under the *Integrity Commission Act 2018*;
 - (c) "Appointer" means the Australian Capital Territory Integrity Commissioner.
 - (d) "Appointment" means the appointment instrument: Integrity Commission Act 2018 (Chief Executive Officer, ACT Integrity Commission) Appointment 2019 (No. 1);
 - (e) "Conditions of Appointment" means these conditions of appointment and the terms and conditions otherwise provided by law.

Term

4. The term is specified in the Appointment and is subject to sections 42 and 43 of the *Integrity Commission Act 2018*.

Termination

5. Under section 43 of the Act, as varied from time to time, the Appointer must end the Appointee's Appointment:
 - (a) for misbehaviour; or
 - (b) for physical or mental incapacity, if the incapacity substantially affects the exercise of the CEO's functions; or
 - (c) if the CEO becomes bankrupt or personally insolvent; or
 - (d) if the CEO is convicted, in the ACT, of an offence punishable by imprisonment for at least 1 year; or
 - (e) if the CEO is convicted outside the ACT, in Australia or elsewhere, of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year.
6. The Appointer may end the appointment at any time, except at a time within 12 months of when the Appointer's appointment will end as per section 42(3) of the Act;
7. The Appointee's appointment ends if the Appointee tells the Appointer, in writing, that the Appointee resigns.
8. The Appointee must provide 8 weeks' notice of resignation, or such lesser time as agreed with the Appointer.
9. The Appointee may only withdraw the Appointee's resignation with the approval of the Appointer.

Remuneration, allowances and entitlements

10. The Appointee is entitled to the remuneration, allowances and entitlements determined in accordance with the relevant determination of the Australian Capital Territory Remuneration Tribunal, from time to time, under the *Remuneration Tribunal Act 1995*. The current remuneration, allowance and entitlements is set out Attachment 1.

Notes:

Currently under section 115 of the Public Sector Management Standards 2016, certain entitlements in the Public Sector Management Standards 2006 (repealed) continue to apply to the Appointee as a full-time statutory office holder.

The Territory's enhanced minimum employer superannuation contribution for the Appointee is provided in the ACT Public Sector Administrative and Related Classifications Enterprise Agreement from time to time. Currently clause D7 of the ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021 contains the minimum employer superannuation contribution for the Appointee and the adjustments required to this rate.

Leave

11. The Appointer may approve leave of absence for the Appointee under section 46 of the Act.

Note:

Currently under section 115 of the Public Sector Management Standards 2016, certain entitlements in the Public Sector Management Standards 2006 (repealed) continue to apply to the Appointee as a full-time statutory office holder.

Appointment

12. The appointment of the Appointee is made according to the requirements of section 41 of the Act, as varied from time to time.

Eligibility for Appointment

13. The appointment of the Appointee is made according to the eligibility requirements of section 50 of the Act, as varied from time to time.

Position duties

14. The duties of the Appointee are those described in Attachment 2.
15. The parties acknowledge that the position, role and levels of responsibility may be varied by the Appointer. In the event of such a variation, the remaining terms and conditions of these Conditions will continue to apply.
16. The Appointer may direct the Appointee to perform or not perform any part of the duties at any time.

Performance management

17. The Appointee's performance will be formally appraised on an annual basis with reviews occurring every six months or as required. The format of the appraisal and review will be determined by the Appointer.
18. The Appointer and the Appointee will negotiate and agree on Key Performance Indicators on an annual basis, such indicators to be documented in writing.

Hours of work

19. The hours of work under these Conditions are 36 hours 45 minutes per week (Monday to Friday).
20. The Appointee may be required to work such additional hours as are reasonably necessary for the Appointee to perform all of their duties and functions. Such hours may be performed outside Monday to Friday.
21. The remuneration payable under clause 10 of these Conditions includes adequate compensation for any reasonable additional hours.

Payment of Remuneration

22. Annual salary will be paid fortnightly in arrears, less applicable taxation, by direct deposit into a bank account nominated by the Appointee.

Reappointment

23. Where the Appointer is satisfied that it is in the interests of the organisation, the Appointee may be reappointed. Any reappointment must not exceed an accumulated maximum total appointment term of 7 years, as required under section 42 of the Act.
24. Any term of reappointment must end within 12 months before or after the end of the Appointer's appointment, as required by section 42(2) of the Act.

Conflict of interest

25. The Appointee must give the Appointer a written statement of material interests relevant to their appointment prior to the commencement of the Appointment.
26. The Appointee must advise the Appointer in writing if he or she has a material interest relevant to their appointment that has not been disclosed previously to the Appointer as soon as practicable after the relevant facts come to the Appointee's knowledge.
27. The Appointee warrants that he or she has, prior to the commencement of this appointment, notified the Appointer of any actual, possible or potential conflicts of interest of which the Appointee is aware, or ought reasonably be aware.
28. The Appointee must comply with any personal interest guidelines made pursuant to section 50(4) of the Act.

Protection of confidential information

29. The Appointee must not disclose, without lawful authority:
- (a) any information acquired by him or her as a consequence of his or her appointment; or
 - (b) any information acquired by him or her from any document to which he or she has access as a consequence of his or her appointment.
30. The Appointee acknowledges that he or she is subject to section 153 of the *Crimes Act 1900* and has ongoing legislative obligations at the end of this Appointment.
31. The Appointee must, if requested by the Appointer, deliver to the Appointer all confidential information and other property of the Appointer, which is in the possession or custody or under control of the Appointee. Where any confidential information is recorded electronically, the Appointer may require that such information be deleted in such a manner that it cannot be retrieved.

Intellectual Property

32. The Territory owns all intellectual property created by the Appointee arising out of or in the course of his or her appointment and the Appointee assigns and transfers any such property to the Territory.
33. The Appointee must, during and after the term of this contract, undertake to execute all documents which the Appointer may reasonably request to secure the Territory's ownership of rights in the intellectual property.
34. The Appointee must not make use of or reproduce any intellectual property owned by the Territory or the Appointer without the Appointer's prior written approval other than in the ordinary course of their appointment.
35. The Appointee's obligations under this clause continue after the cessation of their appointment.
36. Intellectual property means:
- (a) all developments, discoveries, innovations, inventions, novel or technical designs, procedures and trade secrets.
 - (b) the entire copyright in all works included but not limited to all works as defined in the *Copyright Act 1968*.
 - (c) all designs within the meaning of the *Designs Act 1906*.

- (d) all patents and patented application, processes and products within the meaning of the *Patents Act 1990*.
- (e) any trade name, brand name, common law trademark or trademark within the meaning of the *Trademark Act 1995*.

Secondary employment

37. The Appointee shall not, except in accordance with the written approval of the Appointer, accept or engage in any remunerative employment other than in relation to the performance of his or her duties as Chief Executive Officer.

Policies that apply to the Appointee

38. The Appointee must comply with any policies, procedures and practices of the Appointer as they exist from time to time and the Appointee acknowledges that:
- (a) the Appointer may vary any policies and procedure; and
 - (b) to the extent that any such policies impose obligations on the Appointer, those obligations are guidelines only and are not to be relied upon by the Appointee.

Notification of Appointment and Terms – publication

39. The notification of the appointment of the Appointee (and possibly the content of these Conditions, in whole or in part) may be published by one or more means by the Territory and the Appointee acknowledges the same.

Additional obligations of Appointee

Honesty, care and diligence

40. In exercising the functions, the Appointee must comply with Division 2.1 (Public Sector Standards) of the *Public Sector Management Act 1994* (PSM Act) to the extent that the application of division 2.1 is consistent with the exercise of the Appointee's functions.

Note:

The Appointee is considered a public sector member under section 150 of the *Public Sector Management Act 1994*.

41. In exercising the functions, the Appointee is required to adhere to the *ACT Public Sector Code of Conduct* to the extent that the application of *ACT Public Sector Code of Conduct* is consistent with the exercise of the Appointee's functions.

Improper use of information

42. The Appointee acknowledges a person commits an offence if-
- (a) The person uses or discloses information gained because of performing a function for or on behalf of the Territory; and
 - (b) The person does so with the intention of dishonestly obtaining a benefit for the person or someone else.
43. The Appointee further acknowledges a person commits an offence if-
- (a) The person has stopped performing a relevant function for the Territory; and
 - (b) The person uses or discloses information that the person obtained because of performing the function; and
 - (c) The person does so with the intention of dishonestly obtaining a benefit for the person or someone else.
44. In this clause, a person acts dishonestly if-
- (a) The person's conduct is dishonest according to the standards of ordinary people; and
 - (b) The person knows that the conduct is dishonest according to those standards.

Applicable Law

45. These Conditions are governed by the law of the Australian Capital Territory.

Interpretation

46. References to the "Territory" in these Conditions are references to the Australian Capital Territory, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

Signed:

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John Hoytink
Chief Executive Officer
ACT Integrity Commission

Date: 11/10/2019

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Dennis Cowdroy, AO QC
ACT Integrity Commissioner

Date: 11/10/2019

ATTACHMENT 1

Remuneration - rates effective 1 July 2019

- | | |
|---|--------------------------------|
| 1. Total Remuneration package | \$348,548 - 362,672 pa* |
| 2. Annual Salary as determined by the Remuneration Tribunal | \$282,476 pa |
| 3. Territory superannuation contribution | \$31,072 – \$45,196 pa* |
- *depending on current superannuation arrangements
4. Territory provided benefit details:
- (a) use of government leased motor vehicle; or
 - {a} **\$25,000 pa** in lieu of use of government leased motor vehicle;
 - (b) parking; or
 - {b} **\$2,500 pa** in lieu of parking;
 - (c) fringe benefits tax allowance of **\$7,500 pa**.

ATTACHMENT 2

Duties of the position

In addition to the functions of the Appointee under section 44 of the *Integrity Commission Act 2018*, the Appointee is responsible for:

- advising and supporting the Commissioner and implementing the Commissioner's decisions;
- assisting the Commissioner in the development and implementation of the Commission's strategic direction and organisational priorities;
- developing and embedding an appropriate structure to achieve the Commission's statutory, strategic, financial and operational objectives;
- managing the operational, program delivery and administrative activities of the Commission;
- overseeing the efficient use of resources across the Commission, in accordance with priorities; performance measures; and statutory, regulatory and other obligations;
- implementing corporate plans that take account of appropriately assessed and managed risks;
- providing strategic leadership to staff;
- building a high-performance culture and a sustainable, productive work environment;
- setting and monitoring standards and behaviours;
- ensuring the security of the Commission's personnel, property, assets and information; and
- anticipating and managing organisational risks and contingencies.

During the Commission's establishment phase, the Appointee will be responsible for:

- advising and supporting the Commissioner in defining the appropriate structure and resourcing to deliver the Commission's legislated investigative, referral, prevention, information and education functions; and
- ensuring operational business planning and delivery, including:
 - staff recruitment;
 - evaluation of the adequacy of current appropriations;
 - development of budget submissions;
 - development of policies, procedures and performance frameworks, including protocols for working cooperatively with ACT public sector agencies with similar functions; and
 - development and implementation of information systems and reporting arrangements.