



AUSTRALIAN CAPITAL TERRITORY

Legislative Assembly (Members' Staff) (Amendment) Act 1999

No. 15 of 1999

An Act to amend the *Legislative Assembly (Members' Staff) Act 1989*

[Notified in ACT Gazette S16: 14 April 1999]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1. Short title

This Act may be cited as the *Legislative Assembly (Members' Staff) (Amendment) Act 1999*.

2. Commencement

This Act commences on the day on which it is notified in the *Gazette*.

3. Principal Act

In this Act, "Principal Act" means the *Legislative Assembly (Members' Staff) Act 1989*.¹

4. Long title

The title of the Principal Act is repealed and the following title substituted:

“An Act to provide for the employment of staff and the engagement of consultants and contractors by office-holders and members of the Legislative Assembly”.

5. Interpretation

Section 3 of the Principal Act is amended by inserting “or 13CA” after “section 4” in paragraph (c) of the definition of “office-holder”.

6. Power to employ staff not affected

Section 9 of the Principal Act is amended by omitting “who is a member of the Assembly”.

7. Insertion

After Part IIIA of the Principal Act the following Part is inserted:

“PART IIIB—CONSULTANTS AND CONTRACTORS

“Division 1—Office-holders

“13CA. Determinations by Chief Minister

The Chief Minister may, by writing, determine that, having regard to the parliamentary duties of a member of the Assembly, the member ought to be empowered to engage a consultant or contractor, or both, under this Division.

“13CB. Office-holders may engage consultants and contractors

“(1) An office-holder may, on behalf of the Territory, engage, under an agreement in writing, a consultant or contractor for the provision of services necessarily incidental to the performance of his or her ministerial or parliamentary duties.

“(2) An agreement under subsection (1) shall be taken to be a contract for services.

“(3) The power conferred on an office-holder by subsection (1) is not exercisable otherwise than in accordance with arrangements approved, in writing, by the Chief Minister, and the exercise of that power is subject to such conditions as are determined, in writing, by the Chief Minister.

“13CC. Termination of engagement

“(1) The engagement of a consultant or contractor under this Division terminates if the office-holder by whom the consultant or contractor was engaged dies.

“(2) The engagement of a consultant or contractor under this Division terminates if—

- (a) in the case of a consultant or contractor engaged by an office-holder—the office-holder ceases to hold office; or
- (b) in the case of a consultant or contractor engaged by a member of the Assembly in respect of whom a determination by the Chief Minister under section 13CA is in force—the member ceases to be a member of the Assembly or the determination is revoked.

“(3) For the purposes of paragraph (2) (b), a member of the Assembly shall be deemed not to have ceased to be such a member while he or she continues to be entitled to an allowance that was payable to him or her as such a member.

“(4) An office-holder may at any time, by notice in writing given to a consultant or contractor engaged by the office-holder under this Division, terminate the engagement of the consultant or contractor.

“(5) A consultant or contractor engaged by an office-holder under this Division may at any time, by notice in writing given to the office-holder, terminate the engagement.

“(6) The engagement of a consultant or contractor that is not terminated—

- (a) by subsection (1) or (2);
- (b) by the office-holder under subsection (4); or
- (c) by the consultant or contractor under subsection (5);

terminates at the expiration of 3 years, or such shorter period, if any, as is specified in the relevant agreement as the term of the engagement.

“(7) Where the engagement of a consultant or contractor under this Division is terminated by subsection (1) or (2), the Chief Minister may, by writing, direct that the engagement of the consultant or contractor shall be deemed—

- (a) not to have been so terminated; and
- (b) to have continued, or to continue, until a specified date, being a date not later than the date on which the engagement would have terminated by the operation of subsection (6);

and, where the Chief Minister so directs, the engagement of the consultant or contractor under this Division shall, subject to subsection (8), be deemed to have continued, or to continue, until that date.

“(8) Where the engagement of a consultant or contractor is deemed to have continued or to continue under subsection (7)—

- (a) the Chief Minister may at any time, by notice in writing given to the consultant or contractor, terminate the engagement; and
- (b) the consultant or contractor may at any time, by notice in writing given to the Chief Minister, terminate the engagement.

“13CD. Power to engage consultants and contractors not affected

Nothing in this Division affects the power of an office-holder to engage a consultant or contractor under Division 2 of this Part.

“Division 2—Members

“13CE. Members may engage consultants and contractors

“(1) A member of the Assembly may, on behalf of the Territory, engage, under an agreement in writing, a consultant or contractor for the provision of services necessarily incidental to the performance of his or her parliamentary duties.

“(2) An agreement under subsection (1) shall be taken to be a contract for services.

“(3) The power conferred on a member of the Assembly by subsection (1) is not exercisable otherwise than in accordance with arrangements approved, in writing, by the Chief Minister, and the exercise of that power is subject to such conditions as are determined, in writing, by the Chief Minister.

“13CF. Termination of engagement

“(1) The engagement of a consultant or contractor under this Division terminates if the member of the Assembly by whom the consultant or contractor was engaged—

- (a) dies; or
- (b) ceases to be a member of the Assembly.

“(2) For the purposes of paragraph (1) (b), a member of the Assembly shall be deemed not to have ceased to be such a member while he or she continues to be entitled to an allowance that was payable to him or her as such a member.

“(3) A member of the Assembly may at any time, by notice in writing given to a consultant or contractor engaged by the member under this Division, terminate the engagement of the consultant or contractor.

“(4) A consultant or contractor engaged by a member of the Assembly under this Division may at any time, by notice in writing given to the member, terminate the engagement.

“(5) The engagement of a consultant or contractor that is not terminated—

- (a) by subsection (1);
- (b) by the member of the Assembly under subsection (3); or
- (c) by the consultant or contractor under subsection (4);

terminates at the expiration of 3 years, or such shorter period, if any, as is specified in the relevant agreement as the term of the engagement.

“(6) Where the engagement of a consultant or contractor under this Division is terminated by subsection (1), the Chief Minister may, by writing, direct that the engagement of the consultant or contractor shall be deemed—

- (a) not to have been so terminated; and
- (b) to have continued, or to continue, until a specified date, being a date not later than the date on which the engagement would have terminated by the operation of subsection (5);

and, where the Chief Minister so directs, the engagement of the consultant or contractor under this Division shall, subject to subsection (7), be deemed to have continued, or to continue, until that date.

“(7) Where the engagement of a consultant or contractor is deemed to have continued or to continue under subsection (6)—

- (a) the Chief Minister may at any time, by notice in writing given to the consultant or contractor, terminate the engagement; and
- (b) the consultant or contractor may at any time, by notice in writing given to the Chief Minister, terminate the engagement.”.

8. Substitution

Section 13D of the Principal Act is repealed and the following section substituted:

“13D. Disallowable instruments

An instrument referred to in section 4, subsection 5 (2), 6 (2), 8 (6), 10 (2), 11 (2) or 13 (5), section 13CA or subsection 13CB (3), 13CC (7), 13CE (3) or 13CF (6) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.”.

9. Powers may be exercised by authorised person

Section 14 of the Principal Act is amended by omitting “Part II or III” and substituting “Part II, III or IIIB”.

NOTE

Principal Act

1. Reprinted as at 31 January 1998.

[Presentation speech made in Assembly on 29 October 1998]