



AUSTRALIAN CAPITAL TERRITORY

# Legislative Assembly (Members' Staff) Amendment Act 2001

No 57 of 2001

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AUSTRALIAN CAPITAL TERRITORY

**Legislative Assembly (Members' Staff)  
Amendment Act 2001**

**No 57 of 2001**

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***An Act to amend the *Legislative Assembly (Members' Staff)  
Act 1989*, and for other purposes***

*[Notified in ACT Gazette S66: 10 September 2001]*

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

## PART 1—PRELIMINARY

### 1 Name of Act

This Act is the *Legislative Assembly (Members' Staff) Amendment Act 2001*.

### 2 Commencement

This Act commences on a day fixed by the Minister by notice in the Gazette.

*Note 1* The provisions of an Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967*, s 10B).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Interpretation Act 1967*, s 10C (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the date of notification of the Act, it automatically commences on the first day after that period (see *Interpretation Act 1967*, s 10E (2)).

## PART 2—AMENDMENTS OF LEGISLATIVE ASSEMBLY (MEMBERS' STAFF) ACT

### 3 Act amended

This Part amends the *Legislative Assembly (Members' Staff) Act 1989*.

### 4 Interpretation

Section 3 is amended by inserting the following definitions:

*“classification*—see the PSM Act.

*commissioner*—see the PSM Act.

*officer*—see the PSM Act.

*Part 2 employee* means a person employed under Part 2.

*Part 3 employee* means a person employed under Part 3.

**PSM Act** means the *Public Sector Management Act 1994* and the management standards made under that Act.

**relevant chief executive**—see the PSM Act.

**variable term of employment** means a term of employment of a Part 2 or Part 3 employee relating to any matter except a matter covered by section 7 or 12 (Superannuation), or 8 or 13 (Termination of employment).”.

## **5 Substitution**

Section 6 is omitted and the following section substituted:

### **“6 Terms of employment**

“(1) If a matter relating to the employment of a Part 2 employee is not covered by this Act or by the agreement of employment, the relevant provisions of the PSM Act apply in relation to the matter as if the employee were employed under Division 7 of Part 5 of the PSM Act for the term indicated in the agreement.

“(2) The Chief Minister may determine that the variable terms of employment of Part 2 employees are varied.

“(3) A determination under subsection (2) may apply to a stated individual or to a class of persons.”.

## **6 Substitution**

Section 11 is omitted and the following section substituted:

### **“11 Terms of employment**

“(1) If a matter relating to the employment of a Part 3 employee is not covered by this Act or by the agreement of employment, the relevant provisions of the PSM Act apply in relation to the matter as if the employee were employed under Division 7 of Part 5 of the PSM Act for the term indicated in the agreement.

“(2) The Chief Minister may determine that the variable terms of employment of Part 3 employees are varied.

“(3) A determination under subsection (2) may apply to a stated individual or to a class of persons.”.

## **7 Substitution**

The heading to Part 3A is omitted and the following heading substituted:

**“PART 3A—PUBLIC SERVANTS EMPLOYED BY MEMBERS”.**

## **8 Substitution**

Sections 13A, 13B and 13BA are omitted and the following section is substituted:

### **“13A Rights of officers**

**“(1)** A Part 2 or Part 3 employee who is also an officer may apply to the commissioner for a determination to be made under this section of his or her classification and salary as an officer.

**“(2)** An application may be made—

- (a) during the employment under Part 2 or Part 3; or
- (b) not later than 30 days, or a longer period allowed by the commissioner, after the termination of the employment.

**“(3)** On receiving an application, the commissioner must establish a committee consisting of—

- (a) a person nominated by the relevant chief executive; and
- (b) a person nominated by the commissioner; and
- (c) an independent officer;

to consider the application and make a recommendation to the commissioner.

**“(4)** If the applicant tells the commissioner in writing that the applicant wishes the independent officer for the committee to be appointed on the nomination of a named organisation registered under the *Workplace Relations Act 1996* (Cwlth), the commissioner must ask the named organisation to nominate a person for appointment and, if it does so, appoint the person so nominated to be the independent officer for the committee.

“(5) The commissioner must, in writing, determine—

- (a) procedures for choosing an independent officer for a committee; and
- (b) procedures that a committee must follow in considering an application.

*Note* Power given under an Act to make a statutory instrument (including a determination) includes power to amend or repeal the instrument (see *Legislation Act 2001*, s 38 (1)).

“(6) A determination under subsection (5) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

“(7) The commissioner must, taking account of the recommendation of the committee, determine a classification and rate of salary for the applicant as an officer that are not less than his or her current classification and rate of salary as an officer, having regard to—

- (a) the employment of the applicant immediately before being employed under Part 2 or Part 3; and
- (b) the duration of the applicant’s employment under Part 2 or Part 3; and
- (c) the duties performed by the applicant in employment under Part 2 or Part 3; and
- (d) any other matter that the commissioner considers relevant.

“(8) A determination must be in writing and a copy given to the applicant.

“(9) A determination has effect, or is taken to have had effect, when the officer resumes duty as an officer.

## **9 Rights of employees**

Section 13C is amended—

- (a) by omitting the section heading and substituting the following section heading:

“**Rights of certain employees under the PSM Act**”; and

(b) by adding at the end the following subsection:

“(3) In this section:

*employee*—see the PSM Act.”.

### **PART 3—CONSEQUENTIAL AMENDMENT**

#### **10 Consequential amendment of the Public Sector Management Act**

The *Public Sector Management Act 1994* is amended by inserting after section 65 the following section:

##### **“65A Exception for returning officers**

Section 65 does not apply to the promotion of an officer to a higher classification if—

- (a) the officer, while an officer, was employed under Part 2 or Part 3 of the *Legislative Assembly (Members' Staff) Act 1989*; and
- (b) while so employed, the officer was determined, under section 13A of that Act, to have the higher classification; and
- (c) the officer has now returned to duty as an officer.”.

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#### **Endnotes**

##### **Acts amended**

- 1 **For pt 2**—Republished as in force on 31 January 1998. See also Acts 1999 Nos 15 and 70.
- 2 **For pt 3**—Republished as in force on 30 June 1997. See also Acts 1997 No 74; 1998 No 54; 1999 Nos 55, 70 and 82.

*[Presentation speech made in Assembly on 18 October 2000]*