

Australian Capital Territory

Public Sector Management Amendment Standard 2005 (No 6)

Disallowable instrument DI2005—83

made under the

Public Sector Management Act 1994, s 251 (Management Standards)

- (1) I amend the Management Standards as set out in Schedule 1 and Schedule 2;
and
- (2) The instrument commences on 1 July 2005.

Cheryl Anne Vardon
Commissioner for Public Administration

6 / 6 /2005

Approved under the *Public Sector Management Act 1994, s 251 (Management Standards)*

Jon Stanhope
Chief Minister

1 / 6 /2005

SCHEDULE 1 TO DISALLOWABLE INSTRUMENT DI2005-83

PROVISION OF MANAGEMENT STANDARDS		
Part	Part/Rule Description	AMENDMENT
Standard 3	Part 3, Rule 5: Deferral of Increments	Omit Standard 3, Part 3, Rule 5. Substitute Standard 3, Part 3, Rule 5 as set out in Schedule 2.
Standard 3	Part 16, Rule 2: Interpretation	Omit Standard 3, Part 16, Rule 2. Substitute Standard 3, Part 16, Rule 2 as set out in Schedule 2.
Standard 3	Part 16, Rule 4: Leave not to count as service	Omit Standard 3, Part 16, Rule 4. Substitute Standard 3, Part 16, Rule 4 as set out in Schedule 2.
Standard 3	Part 17, Rule 4: Grant of recreation leave	Omit Standard 3, Part 17, Rule 4. Substitute Standard 3, Part 17, Rule 4 as set out in Schedule 2.
Standard 3	Part 17, Rule 5: Accrual of recreation leave credit	Omit Standard 3, Part 17, Rule 5. Substitute Standard 3, Part 17, Rule 5 as set out in Schedule 2.
Standard 3	Part 17, Rule 6: Anticipated recreation leave	Omit Standard 3, Part 17, Rule 6.
Standard 3	Part 17, Rule 8: Accrual for periods including differing hours of duty	Omit Standard 3, Part 17, Rule 8. Substitute Standard 3, Part 17, Rule 8 as set out in Schedule 2.
Standard 3	Part 17, Rule 9: Deferral of accrual of recreation leave for certain purposes	Omit Standard 3, Part 17, Rule 9. Substitute Standard 3, Part 17, Rule 9 as set out in Schedule 2.
Standard 3	Part 17, Rule 10: Effect of defence service on recreation leave accrual	Omit Standard 3, Part 17, Rule 10. Substitute Standard 3, Part 17, Rule 10 as set out in Schedule 2.
Standard 3	Part 17, Rule 11: Recreation leave considered to have been taken	Omit Standard 3, Part 17, Rule 11. Substitute Standard 3, Part 17, Rule 11 as set out in Schedule 2.
Standard 3	Part 17, Rule 12: Recreation leave credit to be reduced by amount of leave taken	Omit Standard 3, Part 17, Rule 12. Substitute Standard 3, Part 17, Rule 12 as set out in Schedule 2.
Standard 3	Part 17, Rule 14: Payment in lieu of recreation leave	Omit Standard 3, Part 17, Rule 14. Substitute Standard 3, Part 17, Rule 14 as set out in Schedule 2.
Standard 3	Part 17, Rule 16: Payment in lieu of separation from ACTPS (except by death)-officers who commenced employment before 26 October 1966	Omit Standard 3, Part 17, Rule 16. Substitute Standard 3, Part 17, Rule 16 as set out in Schedule 2.
Standard 3	Part 18, Rule 3: Credit, accrual and deduction of personal leave	Omit Standard 3, Part 18, Rule 3. Substitute Standard 3, Part 18, Rule 3 as set out in Schedule 2.

SCHEDULE 2 TO DISALLOWABLE INSTRUMENT DI2005-83

Standard 3, Part 3, Rule 5

5. Deferral of increments

a) General

The relevant Chief Executive may defer incremental advancement for an officer based on the officer's:

- diligence;
- efficiency; or
- attendance for duty.

An order to defer an increment must be in writing before the date the increment is due and be for a specified period not greater than twelve months.

A copy of the order and a statement of the reasons for the order must be given to the officer.

If an increment has been deferred for less than six months, the officer concerned may apply to the relevant Chief Executive within that period to reconsider the deferral.

b) Effect of leave without pay not to count as service

If an officer or employee takes leave that does not count as service which aggregates to one or more working months in a calendar year, then the date on which an increment falls due, is deferred by one month for each completed month of absence or each completed month of aggregated absences.

For the purpose of this Rule, *'one working month'* has the same meaning as set in Standard 3 Part 16 Rule 2.

Standard 3, Part 16, Rule 2

2. Interpretation

In this Part, unless the contrary intention appears:

'one working month' means 30 calendar days

note: 30 calendar days is equivalent to 22 working days based on a 5 day working week

'officer' includes an employee

Standard 3, Part 16, Rule 4

4. Leave not to count as service

If leave that does not count as service aggregates to one or more working months in a calendar year for recreation leave or personal leave year for personal leave, then:

- the accrual of personal leave is deferred by 1 day for each day's absence; and
- the officer's recreation leave credit is reduced by one twelfth of their annual entitlement of 20 days for each month of such leave.

For the purposes of this Rule, '*personal leave year*' has the same meaning as under Standard 3, Part 18, Rule 2.

Leave which does not count as service includes:

- unauthorised absences of more than 30 minutes;
- absences due to illness caused by misconduct;
- absence due to no sufficient cause;
- leave when the Commissioner or Chief Executive determines leave will not count as service;
- leave without pay;
- certain periods of staff organisation leave;
- unpaid parental leave;
- compensation leave in excess of 45 weeks, but not when officer is on GRTW;
- leave to engage in employment not in the interests of the Service;
- Defence Service leave where specified in Part 21 Rule 10;
- leave to accompany a domestic partner;
- campaign leave; and
- personal leave with or without pay after 52 weeks continuous absence.

Standard 3, Part 17, Rule 4

4. Grant of recreation leave

A Chief Executive may grant paid recreation leave for a period (in the Rule called the 'relevant period') up to an officer's available credit.

Subject to this Part, available credit includes credit that accrues from day to day.

If the operations of an agency, or part of an agency, are suspended at Christmas or another holiday period, a Chief Executive may direct an officer to take recreation leave at a time that is convenient to the working of the agency, whether or not application for leave has been made.

A Chief Executive may direct a teacher to take available recreation leave, whether or not application for leave has been made, at a time that is convenient to the agency.

An officer in the teaching stream is considered to be on recreation leave from the day after the last day on which the officer's school is open in a calendar year unless otherwise directed by a Chief Executive. The period of recreation leave taken is to the limit of the officer's available credits. This is followed by a stand - down period up to the day before the first day on which the officer's school is open in the next calendar year.

An officer on maternity leave or parental leave under the Standards may access recreation leave other than for the period the officer is receiving paid maternity or primary care givers' leave. This leave may be granted on full pay for the relevant period or on half pay for a period not exceeding twice the relevant period.

A period of recreation leave may be granted for the purposes of maternity or parental leave provided that it does not extend the maximum period for which maternity or parental leave would be available.

Standard 3, Part 17, Rule 5

5. Accrual of recreation leave credit

Subject to this Part, an officer is entitled to the equivalent of four weeks recreation leave, expressed in hours, for each calendar year of service.

Recreation leave for an officer accrues from day to day.

Credit accrues at either full time or part-time rate, based on an officer's normal working hours.

If an officer takes an aggregate of more than one working month of leave that does not count as service, the recreation leave credit is reduced by one twelfth of an officer's annual entitlement of 20 days for each month of such leave.

A teacher or a school assistant in schools who commences duty on or before the first school day of a calendar year, and works without a break in service, during the year, are entitled to the equivalent of four weeks recreation leave, expressed in hours, for each calendar year of service, for their ordinary hours of duty.

Standard 3, Part 17, Rule 6

6. Revoked

Standard 3, Part 17, Rule 8

8. Accrual for periods including differing hours of duty

If an officer has worked differing numbers of ordinary hours of duty, they will have a recreation leave credit, for each of these periods.

Standard 3, Part 17, Rule 9

9. Deferral of accrual of recreation leave for certain purposes

If recreation leave considered to have been taken under this Part is to be applied to an officer who has been on leave, other than on recreation leave, for more than a year, any recreation leave credits which fall due during that period of leave should be treated as if they were credited on the date the officer resumes duty.

Standard 3, Part 17, Rule 10

10. Effect of defence service on recreation leave accrual

A recreation leave credit does not accrue to an officer in accordance with this Part if the officer is absent from duty on leave for specified defence service, or full-time defence service granted under Standard 3 Part 21 Rule 10, referred to here as the '*relevant provisions*'.

If an officer is granted leave under the relevant provisions, they accrue a recreation leave credit equal to the credit to which the officer would have been entitled to under this Part at the commencement of their specified defence service.

If an officer resumes duty after a period of specified defence service, this Part applies, where relevant, as if the officer's recreation leave credit at the commencement of their specified defence service had accrued on the date the officer resumes duty.

Standard 3, Part 17, Rule 11

11. Recreation leave considered to have been taken

Subject to this Rule, if an officer has not used the whole or part of a recreation leave credit that accrues two years before 1 July in any year, they are considered to have been granted recreation leave, for the period of the unused recreation leave credit on:

- a) the first day of July; or
- b) if on the first of July the officer is on leave for a period not exceeding four weeks – immediately at the end of that leave; or
- c) if on the first of July the officer is on leave for a period exceeding four weeks and they do not use the unused recreation leave credit within the period of six months immediately following the leave taken – six months after resuming duty.

A Chief Executive may defer applying the provisions of this Rule to an officer who is on a graduated return to work program ('*GRTW*') on 1 July of any year or on full-time compensation leave as part of the rehabilitation process under the *Commonwealth Employees' Rehabilitation and Compensation Act 1988*.

The application of this Rule may be deferred for either:

- 12 months, starting either from the time the officer commences the GRTW, or from 1 July of that year, whichever is the later; or
- 3 months from the date the officer returns to normal working hours; whichever is completed first.

If an officer on GRTW acquires an additional excess recreation leave credit during this time, the provisions of this Rule must be applied within six months.

A Chief Executive may vary, in exceptional circumstances to meet the operational requirements of an agency, the date on which recreation leave is considered to have been taken in this Rule for a defined period.

If an officer is not absent from duty during the whole or part of a period of recreation leave that is granted to the officer in accordance with this Part, and the relevant Chief Executive informs the officer that they are required in the interests of the Service to remain absent from duty for the period or part of the period, the officer must remain absent from duty.

If an officer applies in writing, a Chief Executive must grant recreation leave before the first day of July, if this would enable an officer to use all or part of a leave credit that would otherwise attract the application of this Part. If an officer consents, a Chief Executive may substitute alternative dates, having considered the operational needs of the agency.

Recreation leave credits accrued by an officer in the teaching stream in one year may not be carried over beyond the last day of December in the following year except with the approval of the Chief Executive.

A Chief Executive may only approve a carryover on grounds of the illness of the officer.

Standard 3, Part 17, Rule 12

12. Recreation leave credit to be reduced by amount of leave taken

If an officer is granted leave, or considered to have been granted recreation leave, under this Part the recreation leave credit is reduced by the period of the leave. Public holidays falling during recreation leave are not deducted from the recreation leave credit.

Standard 3, Part 17, Rule 14

14. Payment in lieu of recreation leave

Subject to this Rule, if an officer or employee commenced duty after 26 October 1966 and their employment ceases for some reason other than death, they are entitled to be paid an amount equal to the salary that would be paid if they

used their full recreation leave credit at the time they ceased to be an officer, or their employment ceased.

See Standard 3 Part 17 Rule 16 for officers joining before 26 October 1966.

If an officer or employee commenced duty after 1 January 1978 but before 1 July 2005, the payment in lieu of recreation leave will include payment for any part of a month of service worked at the commencement of service but not included in the officer or employee's recreation leave credit.

If an officer resigns in order to accept a job with an organisation which will accept their recreation leave credits, they are not entitled to a payment in lieu of recreation leave.

A temporary employee whose employment is extended lawfully is not considered to have ceased to be an employee for the purposes of this Rule.

Allowances which would have been included in an officer's pay during recreation leave must be included when calculating entitlements under this Rule.

Standard 3, Part 17, Rule 16

16. Payment in lieu on separation from ACTPS (except by death) - officers who commenced employment before 26 October 1966.

If an officer commenced duty before 26 October 1966, the recreation leave credit which accrues under this Part in the year of separation is to be reduced by one-twelfth of 3 weeks for each completed month in that year before the anniversary of the date of commencement.

Standard 3, Part 18, Rule 3

3. Credit, accrual and deduction of personal leave

An officer is entitled to receive a personal leave credit of 10 working days at full pay and 10 working days at half pay, on the date of their permanent appointment and on the completion of each subsequent twelve months of continuous service. Absences which do not count for service totalling more than 30 calendar days defer the next accrual by 1 day for each day's absence.

If an officer or employee changes their normal weekly hours of duty, their sick leave will be adjusted in accordance with the following formula:

- new working hours divided by old working hours multiplied by the personal leave credit.

If previous service with an approved organisation is recognised as service which counts towards the accrual of personal leave under the mobility provisions of the Standards, the date on which personal leave accrues can be varied to reflect a previous accrual date.

The Chief Executive may allow an employee, in the first 10 years of service, when the employee is medically unfit for duty, to anticipate 1 year's personal leave accrual where full pay credits are exhausted.

Any personal leave taken must be deducted from the officer's credit.

If a person is retired from the service on grounds of invalidity, and is re-appointed as a result of action taken under the *Superannuation Act 1976* or the *Superannuation Act 1990*, they are entitled to be recredited with any unused personal leave credit held prior to the invalidity retirement.