

Australian Capital Territory

Public Sector Management Amendment Standard 2006 (No 6)

Disallowable instrument DI2006—142

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. This Instrument commences on 1 July 2006.

Elizabeth Kelly
Commissioner for Public Administration

29 / 6 /2006

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

Jon Stanhope
Chief Minister

29 / 6 /2006

SCHEDULE 1 TO DISALLOWABLE INSTRUMENT NO 2006-

PROVISION OF MANAGEMENT STANDARDS		
Part	Part/Rule Description	AMENDMENT
Standard 7	Part 8: Notice and special benefits for statutory office holders	Insert Standard 7, Part 8 as set out in Schedule 2.
Standard 2	Part 1, Rule 6: Payment of special benefits in certain circumstances	Omit Standard 2, Part 1, Rule 6. Substitute Standard 2, Part 1, Rule 6 as set out in Schedule 2.
Standard 7	Part 9: Superannuation for statutory officer holders on and from 1 July 2006	Insert Standard 7, Part 9 as set out in Schedule 2.
Standard 2	Part 1, Rule 10: Superannuation	Insert Standard 2, Part 1, Rule 10 as set out in Schedule 2.
Standard 6	Part 3: Non-Executive Vehicles	Omit Standard 6, Part 3. Substitute Standard 6, Part 3 as set out in Schedule 2.
Standard 6	Part 4, Rule 1: Choice of Motor Vehicles	Omit Standard 6, Part 4, Rule 1. Substitute Standard 6, Part 4, Rule 1 as set out in Schedule 2.
Standard 6	Part 4, Rule 1A: Choice of Motor Vehicles	Insert Standard 6, Part 4, Rule 1A as set out in Schedule 2.
Standard 6	Part 4, Rule 2: Vehicle transfer and return	Omit Standard 6, Part 4, Rule 2. Substitute Standard 6, Part 4, Rule 2 as set out in Schedule 2.

SCHEDULE 2 TO DISALLOWABLE INSTRUMENT N02006-

Standard 7, Part 8

Part 8 Notice and special benefits for statutory office holders

1. Interpretation

In this Part, unless the contrary intention appears:

continuous recognised service is calculated in the same way as an officer's period of service is calculated for long service leave under section 154 of the Act.

chief executive means the chief executive in control of the administrative unit allocated responsibility under administrative arrangements for the enactment under which the statutory officer holder is appointed.

relevant Remuneration Tribunal Determination means:

- a) Determination Number 196 – 'Full-time Holders of Public Office', effective 1 July 2006 or Determination Number 197 – 'Part Time Holder of Public Office – Commissioner for Surveys', effective 1 July 2006, as varied; or
- b) any determination by the Remuneration Tribunal, which supersedes Determination Number 196, and applies to full-time holders of public offices.

2. Application

This Part applies to statutory office holders covered by the relevant Remuneration Tribunal Determination.

The requirement for notice or special benefits set out in Rules 3 and 4 of this Part apply where the appointment of a statutory office holder is to end before the appointment is due to end but does not apply where the appointment ends:

- a) by expiry of the term of appointment;
- b) by the resignation of the statutory officer holder; or
- c) under the Act by which the statutory officer holder is appointed and the ending of the appointment relates to removal from office, termination of appointment or retirement provisions under that Act.

3. Notice

Where the appointment of a statutory office holder ends, before it was due to end, the chief executive must give the statutory office holder notice that the appointment will end. The notice must be in writing and given at least eight weeks before the appointment is to end.

At the election of the chief executive, or the statutory office holder, a payment equal to the remuneration for the eight weeks notice period may be made in lieu of notice.

4. Special benefits

Where the appointment of a statutory office holder ends before the appointment is due to end; the statutory office holder will be entitled to a special benefit of:

- a) two weeks remuneration for every completed year of continuous recognised service;
- b) up to a maximum of 44 weeks remuneration.

To avoid doubt, a special benefit under this Rule is in addition to any notice period or payment in lieu of the notice period under Rule 3 of this Part.

Standard 2, Part 1, Rule 6

6. Payment of special benefits in certain circumstances and payment in lieu of notice

For the purpose of this Rule, a period of continuous recognised service is calculated in the same way an officer's period of service is calculated for long service leave under section 154 of the Act.

a) Special benefits on early termination of contract

Except where Rule 6(b) applies, if a Chief Executive's or Executive's contract of employment is terminated on a ground involving changes to operational requirements which result in a substantial change to the nature of the work required under the contract, for the purposes of sections 28A or 73 of the Act, the prescribed benefit payable is two weeks remuneration for every completed year of continuous recognised service, up to a maximum of 44 weeks remuneration. This is in addition to any notice period provided in the contract of employment or payment in lieu of notice under the Standards.

If a Chief Executive's or Executive's contract of employment is terminated because of a failure to disclose a prior criminal conviction, subject to the Spent Convictions Scheme in the *Spent Convictions Act 2000*, the prescribed benefit for the purpose of sections 28A or 73 of the Act is two weeks remuneration for every completed year of continuous recognised service, up to a maximum of 1 month's remuneration.

b) Special benefits applying to transitional executives on early termination or non-renewal of contract in certain circumstances

In the case of transitional executives who have been offered one or more consecutive contracts, the prescribed benefit payable for the purpose of sections 28A or 73 of the Act is two weeks remuneration for every completed year of continuous recognised service, up to a maximum of 52 weeks remuneration if an employer:

- i) terminates the contract as a result of changes to operational requirements that result in substantial change to the nature of the work required under the contract;
- ii) immediately following the expiration of an existing contract does not offer a further contract, provided the reasons for not offering a new contract do not relate to poor performance, misconduct or failure to

- disclose a prior criminal conviction, subject to the Spent Convictions Scheme in the *Spent Convictions Act 2000*; or
 - iii) immediately following the expiration of an existing contract offers a further contract in respect of an executive office that has a significantly lower work value level than the office relating to the expired contract and the Executive does not accept the further contract.
- c) Payment in lieu for notice period

Chief Executive and Executive contracts provide for notice requirements for termination of contracts in certain circumstances.

Where notice is required under the contract of employment, a payment equal to the remuneration for that period of notice may, at the election of the employer or employee, be made in lieu of notice.

Standard 7, Part 9

Part 9 Superannuation for statutory officer holders on and from 1 July 2006

1. Application

This Part applies to a person:

- a) appointed as a statutory officer holder, on and from 1 July 2006, whether or not they were formerly appointed as a statutory officer holder; but
- b) does not apply to an existing Commonwealth Superannuation Scheme (CSS) or Public Sector Superannuation Scheme (PSS) member.

2. Interpretation

remuneration component means the remuneration payable to a statutory office holder that is set out in:

- a) clause 1 of the Remuneration Tribunal Determination No 196 ‘Full-time Holders of Public Office’ effective 1 July 2006; or
- b) a clause of any subsequent Remuneration Tribunal determination that supersedes Determination No 196 and applies to full-time holders of public office.

3. Superannuation contributions

The value of the employer’s superannuation contribution is to be contributed on behalf of the statutory office holder to an agreed superannuation fund nominated by the statutory office holder and is:

- a) 9% of the remuneration component; or
- b) 10% of the remuneration component, if the statutory office holder contributes 3% or more of his or her remuneration component to the agreed superannuation fund nominated by the statutory office holder in the form of personal superannuation contributions.

The employer must contribute any nominated amount on behalf of the statutory officer holder to an agreed superannuation fund nominated by the statutory office holder. This amount is the personal superannuation contributions of the statutory office holder to the nominated superannuation fund.

The value of the employer's superannuation contribution must not be paid in cash to a statutory office holder.

Standard 2, Part 1, Rule 10

10. Superannuation

This Rule applies to:

- a) any person engaged under a contract as a Chief Executive or Executive, on and from 1 July 2006, whether or not they were formerly engaged as a Chief Executive or Executive; but
- b) does not apply to any person:
 - i. who is an existing Commonwealth Superannuation Scheme (CSS) or Public Sector Superannuation Scheme (PSS) member; or
 - ii. previously engaged or appointed under the Act between 1 July 2005 and 30 June 2006, where the subsequent engagement as a Chief Executive or Executive would be continuous with the employment between 1 July 2005 and 30 June 2006.

In this Rule, **remuneration component** means the remuneration payable to Chief Executives and Executives that is set out in:

- a) Schedule A of the Remuneration Tribunal Determination No 195 'Chief Executives and Executives' effective 1 July 2006; or
- b) a clause or schedule of any subsequent Remuneration Tribunal determination that supersedes Determination No 195 and applies to Chief Executives and Executives.

The value of the employer's superannuation contribution is to be contributed on behalf of the Chief Executive or Executive to an agreed superannuation fund nominated by the Chief Executive or Executive and is:

- a) 9% of the remuneration component; or
- b) 10% of the remuneration component, if the Chief Executive or Executive contributes 3% or more of his or her remuneration component to the agreed superannuation fund nominated by the Chief Executive or Executive in the form of personal superannuation contributions.

The employer must contribute any nominated amount on behalf of the Chief Executive or Executive to an agreed superannuation fund nominated by the Chief Executive or Executive. This amount is the personal superannuation contributions of the Chief Executive or Executive to the nominated superannuation fund.

The value of the employer's superannuation contribution must not be paid in cash to a Chief Executive or Executive.

Standard 6, Part 3

1. Authorised use

An ACTPS vehicle must be made available for use by authorised personnel during normal working hours.

The use of a non-Executive vehicle must be approved by the relevant Chief Executive and include authority to drive and to carry passengers.

Approval to carry persons other than ACTPS employees may only be given where the use is related to the business operations of an agency or as a result of an emergency or special circumstance. If a person other than an ACTPS employee is transported in an ACTPS vehicle in an emergency or special circumstance the driver must advise their supervisor as soon as possible as to the circumstances.

2. Driver responsibilities

A driver is responsible for the care of an ACTPS vehicle in their control in accordance with the guidelines set out in the *ACTPS Non-Executive Passenger and Light Commercial Vehicle Management Policy* and the general obligations of public employees as set out in section 9 of the Act.

A driver must hold a current, valid and appropriate licence, or where they are required to upgrade an existing driver's licence for employment purposes they must comply with the relevant conditions set out in the *ACTPS Non-Executive Passenger and Light Commercial Vehicle Management Policy* including obtaining the prior approval of their supervisor.

A driver of an ACTPS vehicle must not:

- smoke in an ACTPS vehicle;
- consume alcohol in an ACTPS vehicle; or
- carry alcohol in or on an ACTPS vehicle unless special approval has been given by the relevant Chief Executive.

A driver is personally responsible for any breaches of ACT Road Transport Law if they are in control of a vehicle and must pay any fine incurred.

3. Home garaging

Home garaging of non-Executive vehicles, including home garaging outside of the ACT, is not permitted unless approved by the relevant Chief Executive in accordance with the *ACTPS Non-Executive Passenger and Light Commercial Vehicle Management Policy*.

Approval for home garaging of a non-Executive vehicle extends to travel to and from work for the purposes of home garaging, but does not extend to the private use of the vehicle. A home garaged vehicle must be parked behind the property line and, if available, under cover.

4. Private use

Private use of a non-Executive vehicle is not permitted unless approved by the relevant Chief Executive.

5. Recording and reporting

An agency must keep appropriate records of ACTPS vehicles, including home garaging and private use, and comply with the reporting requirements set out in the *ACTPS Non-Executive Passenger and Light Commercial Vehicle Management Policy*.

6. Range of available vehicles

The relevant Chief Executive will determine the range of vehicles available to agencies and the related replacement parameters. In determining the range of available vehicles, including replacement vehicles, the relevant Chief Executive should have regard to the specification requirements set out in the *ACTPS Non-Executive Passenger and Light Commercial Vehicle Management Policy*.

If the agency sells the vehicle early, the agency is liable for all financial penalties resulting from the sale.

7. Additional vehicles

All additional non-Executive vehicles must be justified on the grounds of operational necessity or cost effectiveness and approved by the relevant Chief Executive.

8. Vehicle hire

Vehicles must not be hired on a short term basis to cover a long term need. Each vehicle hire must be individually justified to and approved by the relevant Chief Executive.

9. Private plated vehicles

A private-plating of a non-Executive vehicle is limited to special circumstances and subject to approval from the relevant Chief Executive. A request for approval must outline the purpose, requirements and justification for the request including details of compliance with government policy.

10. Vehicle maintenance

An ACTPS vehicle is to be maintained in a safe and roadworthy condition and serviced in accordance with the *ACTPS Non-Executive Passenger and Light Commercial Vehicle Management Policy*.

An agency must advise Rhodium Assets Solutions of a defect requiring correction or arrange to have the defect corrected by an authorised repairer. A vehicle with a defect that renders it unsafe must not be driven.

An ACTPS vehicle must not be modified or have accessories added without the prior approval of Rhodium Assets Solutions. Prior approval by the relevant Chief Executive is required before any logos are affixed to ACTPS vehicles.

11. Purchase of fuel

A fuel card is to be used only for the purchase of fuel and top up oil from approved outlets for the official use of specified ACTPS vehicles.

The use of a fuel card for any other vehicle or receptacle or for other than official purposes is not permitted.

An accurate odometer reading must be recorded each time an ACTPS vehicle is supplied with fuel.

A loss of fuel from an ACTPS vehicle is to be reported to agency management.

Damage to a fuel card must immediately be reported to the agency contact officer and to Rhodium Assets Solutions.

Standard 6, Part 4, Rule 1

1. Application

This Part applies to:

- a) a Chief Executive or Executive; and
- b) a statutory officer holder appointed on or after 1 July 2006.

In this Part, a reference to an Executive includes a Chief Executive.

In this Part, a reference to an executive vehicle includes a reference to a Chief Executive or statutory office holder vehicle.

1A. Choice of motor vehicles

Where an Executive engaged under a contract before 1 July 2006 elects to retain the use of a motor vehicle, that vehicle must be chosen in accordance with arrangements set by Remuneration Tribunal determinations on Executives of the ACTPS, except where otherwise approved by the Commissioner in accordance with *ACTPS Policy for the Management and Use of Executive Vehicles*.

Where:

- a) an Executive engaged under a contract on or after 1 July 2006 (whether or not the person was formerly an Executive) elects to retain the use of a motor vehicle; or
- b) a statutory office holder appointed on or after 1 July 2006 (whether or not the person was formerly a statutory office holder) elects to retain the use of a motor vehicle;

unless otherwise determined by the administering Chief Executive for operational reasons in accordance with the *ACTPS Policy for the Management and Use of Executive Vehicles*, the vehicle chosen must be a four cylinder vehicle.

An item of equipment fitted to an Executive vehicle must:

- comply with the manufacturer's specifications;
- maintain a highly professional image of the ACTPS; and
- not detract from the potential resale value of the vehicle.

A modification to an ACTPS vehicle must have the approval of the Commissioner. If a modification is made, any cost of restoration must be met by the Executive who requested the modification.

An executive vehicle is one which is provided, as self drive and private plated, to an Executive as part of their total remuneration package, and includes any vehicle provided in lieu of that vehicle.

Standard 6, Part 4, Rule 2

2. Vehicle transfer and return

An agency must notify Rhodium Assets Solution of a transfer of an Executive vehicle from one agency to another.

If an Executive vehicle is no longer required by an Executive that vehicle must either be:

- returned to the agency for reallocation;
- re-plated as a 200 series vehicle and reallocated within the agency concerned;
- or
- returned to Rhodium Assets Solution, and any direct or indirect costs incurred by the ACTPS as a result of the early sale of the vehicle must be met by the agency concerned.