

Australian Capital Territory

# **Public Sector Management Amendment Standard 2006 (No 2)**

**Disallowable instrument DI2006—4**

made under the

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

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1. I amend the Management Standards as set out in Schedule 1 and Schedule 2.
2. The instrument commences on 23 January 2006.

Cheryl Anne Vardon  
Commissioner for Public Administration

6 / 1 /2006

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

Ted Quinlan  
Acting Chief Minister

3 / 1 /2006

**SCHEDULE 1 TO DISALLOWABLE INSTRUMENT NO 2006-4**

<b>PROVISION OF MANAGEMENT STANDARDS</b>		
<b>Part</b>	<b>Part/Rule Description</b>	<b>AMENDMENT</b>
Standard: Introduction	Part 2, Rule 2: Definitions of particular terms	Omit Standard: Introduction, Part 2, Rule 2. Substitute Standard: Introduction, Part 2, Rule 2 as set out in Schedule 2.
Standard 2	Part 7, Rule 1: Application	Omit Standard 2, Part 7, Rule 1. Substitute Standard 2, Part 7, Rule 1 as set out in Schedule 2.
Standard 2	Part 7, Rule 2: Qualifying employment	Omit Standard 2, Part 7, Rule 2. Substitute Standard 2, Part 7, Rule 2 as set out in Schedule 2.
Standard 2	Part 7, Rule 10: Commissioner discretion for recognition of prior service	Insert Standard 3, Part 7, Rule 10 as set out in Schedule 2.
Standard 3	Part 18, Rule 13: Recognition of prior service for personal leave	Omit Standard 3, Part 18, Rule 13. Substitute Standard 3, Part 18, Rule 13 as set out in Schedule 2.
Standard 3	Part 19, Rule 2: Interpretation	Omit Standard 3, Part 19, Rule 2. Substitute Standard 3, Part 19, Rule 2 as set out in Schedule 2.
Standard 3	Part 19, Rule 5: Previous employment for LSL	Omit Standard 3, Part 19, Rule 5. Substitute Standard 3, Part 19, Rule 5 as set out in Schedule 2.
Standard 3	Part 19, Rule 9: LSL Schedules	Omit Standard 3, Part 19, Rule 9. Substitute Standard 3, Part 19, Rule 9 as set out in Schedule 2.
Standard 3	Part 19, Rule 10: Chief Executive discretion to recognise prior service for long service leave	Insert Standard 3, Part 19, Rule 10 as set out in Schedule 2.
Standard 3	Part 20, Rule 2: Prescribed Employment	Omit Standard 3, Part 20, Rule 2. Substitute Standard 3, Part 20, Rule 2 as set out in Schedule 2.
Standard 3	Part 20, Rule 3: Maternity Leave Schedule	Omit Standard 3, Part 20, Rule 3. Substitute Standard 3, Part 20, Rule 3 as set out in Schedule 2.

## SCHEDULE 2 TO DISALLOWABLE INSTRUMENT N02006-4

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Standard: Introduction, Part 2, Rule 2

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### 2. Definitions of particular terms

If a term is used in these Standards and the term is defined in the Act but not in the Standards, then, unless the contrary intention appears, the term has the meaning given to it in the Act.

In these Standards, unless the contrary intention appears:

**ABS** means the Australian Bureau of Statistics.

**ACTPS** means the Australian Capital Territory Public Service established under section 12 of the *Public Sector Management Act 1994*. 'ACTGS' has the same meaning.

**Agency** has the same meaning as 'government agency' in the Act.

**APS** means the Australian Public Service.

**ASO** means the classification '*Administrative Service Officer*' and includes a reference to an office classified by that name or a person occupying such an office.

**Award** has the same meaning as '*industrial award*' in the Act.

**Calvary Hospital** means Calvary Hospital A.C.T. Incorporated.

**Certified Agreement** means the relevant ACT Public Service agreement that covers officers and employees certified under Division 4 of Part VIB of the *Workplace Relations Act 1996* (Commonwealth).

**Chief Executive** has the same meaning as '*relevant Chief Executive*' in the Act.

**COMCARE** has the same meaning as in the *Safety Rehabilitation and Compensation Act 1988* (Commonwealth).

**committee**, in relation to a committee, means all the members of the committee or one or more members acting on behalf of all members.

**Commonwealth Superannuation Scheme (CSS)** means the superannuation scheme administered under the *Superannuation Act 1976* (Commonwealth).

**Consequential and Transitional Provisions Act** means the *Public Sector Management (Consequential and Transitional Provisions) Act 1994* (ACT).

**CPA or the Commissioner** means the Commissioner for Public Administration.

**current office** means the office an officer occupies, or, for an unattached officer, an office having the same classification as the officer.

**domestic partner** is a reference to someone who lives with the person in a domestic partnership, and includes a reference to a spouse of the person.

**domestic partnership** is the relationship between 2 people, whether of a different or the same sex, living together as a couple on a genuine domestic basis.

**Gazette** means the *Australian Capital Territory Gazette*.

**GMO** means a Government Medical Officer registered as a medical practitioner who has been engaged to provide medical opinion to a government agency in respect of a person.

**GRTW** means a graduated return to work program.

**GSO** means the classification 'General Service Officer' and includes a reference to an office classified by that name or a person occupying such an office.

**HDA** means Higher Duties Allowance.

**locality** means the ACT and surrounding region.

**MPRA** means the Merit Protection and Review Agency established under the *Merit Protection (Australian Government Employees) Act 1984* (Commonwealth).

**Part-time officer** means an officer who occupies a part-time office or an unattached officer who occupied a part-time office immediately before becoming unattached.

**Prior service** is employment treated as if had been employment by the Territory, or included in length of service, for the purposes of ACTPS entitlements.

**public purpose** includes government purposes and purposes relating to the public interest or public benefit.

**Public Sector Management** means any group or unit responsible for the administration of the *Public Sector Management Act 1994* and the Public Sector Management Standards.

**Public Sector Superannuation Scheme** (PSS) means the superannuation scheme administered under the *Superannuation Act 1990* (Commonwealth).

**returned soldier** has the same meaning as the definition in section 251(5) of the *Public Sector Management Act 1994*.

**Selection Committee** means a committee established to consider and recommend which officer, employee or person should be appointed, promoted, transferred to an office or employed.

**Self-Government Act** means the *Australian Capital Territory (Self Government) Act 1988* (Commonwealth).

***Self-Government (Consequential Provisions) Act*** means the *ACT Self-Government (Consequential Provisions) Act 1988* (Commonwealth).

***staff bulletin*** means any bulletin distributed among officers and employees under the authority of the Commissioner and which contains details of positions available for appointment, promotion, permanent or temporary transfer or employment.

***Standard*** means a Public Sector Management Standard made under the Act and includes a part of a Standard.

***State*** includes a Territory.

***Superannuation Acts*** mean the *Superannuation Act 1976* (Commonwealth) or the *Superannuation Act 1990* (Commonwealth), or both, as the case requires.

***the Act*** means the *Public Sector Management Act 1994* (ACT).

***union*** has the same meaning as '*relevant staff organisation*' in the Act.

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Standard 2, Part 7, Rule 1

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## **1. Interpretation**

In this Part, unless the contrary intention appears:

***officer*** includes an employee.

***public authority*** means employment recognised under Standard 3 Part 19 Rule 9 or Standard 3 Part 19 Rule 10.

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Standard 2, Part 7, Rule 2

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## **2. Recognition of prior service before 23 January 2006**

For the purposes of this Rule, officer includes:

- a) a statutory office holder; and
- b) a person employed by a territory instrumentality or by a statutory officer holder;

where the person is covered by Part 7 (Long Service Leave) or Part 8 (Maternity Leave) of the Act.

Notwithstanding anything else in these Standards, a person who was an officer immediately before 23 January 2006 is entitled to have previous employment recognised as prior service for any purpose, if that previous employment would have been recognised as prior service for that purpose under the Standards as in force immediately before 23 January 2006.

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**Standard 2, Part 7, Rule 10**

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**7. Commissioner discretion for recognition of prior service**

The Commissioner may approve, in writing, on a case-by-case basis, recognition of previous employment as prior service for any entitlement affected by the length of service in the ACTPS, where:

- a) the previous employment would otherwise not count as prior service under the Act or Standards; and
- b) at the time of the previous employment, the employment was predominately for a public purpose.

In exercising this discretion, the approval must state the entitlement(s) for which prior service is recognised.

Note: Prior service may be recognised for a variety of entitlements including the accrual of long service, redundancy and eligibility for paid maternity leave.

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**Standard 3, Part 18, Rule 13**

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**13. Recognition of prior service for personal leave**

An officer who is entitled to personal leave credits and meets the criteria in these Rules is entitled to have prior permanent and temporary service with approved organisations recognised for the purpose of personal leave.

The employment recognised under Part 19 Rule 9 or Part 19 Rule 10 are those for which prior service can be recognised provided that:

- any break in service is no more than two months; or
- for any longer break, the Commissioner determines that special circumstances exist.

Special circumstances include:

- delay in commencing service because of unforeseen complications or deficient administration;
- an unduly protracted selection and appointment process;
- inadequate or incorrect advice regarding a suitable commencement date; or
- other problems which, through no fault of the staff member, prevented the taking up of an offer of employment within the required time.

Prior part-time employment recognised under Part 19 Rule 9 or Part 19 Rule 10, must only be counted as service for personal leave purposes if:

- part-time service has been for at least 24 hours a week on at least four days a week;
- the service attracted an entitlement to personal leave;
- the part-time service occurred after 1 March 1990; and
- the service attracted a salary loading in lieu of leave, and was rendered between 1 March 1990 and 15 July 1991.

If prior service is recognised for personal leave, an officer will accrue personal leave credits from the first date of service so recognised with the following provisos:

- from the personal leave credits established, a deduction is made of personal leave actually taken while employed in that recognised prior service, and a deduction of any personal leave credits for which payment in lieu was made by that organisation on separation;
- if the deduction required exceeds the personal leave credit, no credit is transferred however the prior service is recognised for determining years of service for personal leave entitlements; and

*Note: the number of years of service affects personal leave entitlements, for example under Standard 3 Part 18 Rules 3 and 8.*

- if there are no available records, five days personal leave per annum assumed usage is to be deducted. For eligible temporary staff with prior service during their first year of service and the total period of continuous prior service and current service is less than twelve months, the effect is to bring forward the current accrual.

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## Standard 3, Part 19, Rule 2

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### 2. Interpretation

In this Part, unless the contrary intention appears:

***dependant*** includes a person who was being maintained wholly or partly by the officer at the time of the employee's death.

***Higher Duties Allowance ('HDA')*** means the allowance paid to an officer who is directed to perform the duties of a higher office.

***government*** means the Commonwealth, a State or a Territory.

***government owned*** means ownership by the Commonwealth, a State or a Territory, and includes ownership shared across the Commonwealth, the States and/or the Territories.

***officer*** includes:

- an employee;
- a statutory office holder; and
- a person employed by a Territory instrumentality or by a statutory office holder.

***minor*** means a person under the age of eighteen years.

***relevant day*** in relation to a person who ceases to be an officer, means the day on which they cease to be an officer.

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**Standard 3, Part 19, Rule 5**

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**5. Recognition of unrecorded employment**

The relevant Chief Executive may approve applications for recognition of a period of unrecorded employment if three statutory declarations are submitted, where:

- a) one statutory declaration is completed by the applicant; and
- b) two other statutory declarations are provided by two persons that were associated with the applicant departmentally for the period or periods in question.

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**Standard 3, Part 19, Rule 9**

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**9. Recognition of prior service for long service leave**

Previous employment is to be taken into account as if it had been ‘employment by the Territory’ for the purposes of sections 150 and 154 of the Act where, at the time of the employment:

- a) the employment was within:
  - i. a *government* Department or Agency;
  - ii. a public authority as defined by section 149 of the Act;
  - iii. a wholly *government owned* organisation, body or corporation; or
  - iv. a company specified in Schedule 1 of the *Territory-Owned Corporations Act 1990*; or
- b) the employment was predominantly for the purpose of delivering acute public health care services.

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**Standard 3, Part 19, Rule 10**

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**10. Chief Executive discretion to recognise prior service for long service leave**

The relevant Chief Executive may, on a case-by-case basis, take account of previous employment for the purposes of sections 150 and 154 of the Act as if it had been employment by the Territory if, at the time of the employment:

- a) the employment was within an organisation, body or corporation that is at least 50% *government owned*; or
- b) the employment was within an organisation, body or corporation that was created for a public purpose, and is recognised for the purposes of long service leave by the Commonwealth, a State or the Northern Territory.



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**Standard 3, Part 20, Rule 2**

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**2. Prescribed employment for maternity leave**

For the purposes of subsection 170(3) of the Act, *'prescribed employment'* is employment, where, at the time of the employment:

- a) the employment was within:
  - i. a Commonwealth or Australian Capital Territory Government Department or Agency;
  - ii. a Commonwealth or Australian Capital Territory public authority as defined by section 149 of the Act;
  - iii. a wholly Commonwealth or Australian Capital Territory government owned organisation, body or corporation (including ownership shared across the Commonwealth or Australian Capital Territory);
  - iv. a company specified in Schedule 1 of the *Territory-Owned Corporations Act 1990*; or
- b) the employment was predominantly for the purpose of delivering acute public health care services, in a Commonwealth or ACT organisation.

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**Standard 3, Part 20, Rule 3**

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**3. Chief Executive discretion to prescribe employment for maternity leave**

The relevant Chief Executive may, on a case-by-case basis, prescribe employment for the purposes of subsection 170(3) of the Act, if, at the time of the employment:

- a) the employment was within an organisation, body or corporation that is at least 50% Commonwealth or ACT government owned; or
- b) the employment was within an organisation, body or corporation that was created for a public purpose, and is recognised for the purposes of maternity leave by the Commonwealth.