

Australian Capital Territory

# **Public Sector Management Amendment Standards 2007 (No 4)\***

**Disallowable instrument DI2007-125**

made under the

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

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I amend the Standards as set out below.

Catherine Hudson  
Commissioner for Public Administration

19/06/2007

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

Jon Stanhope  
Chief Minister

19/06/2007

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\*Name amended under Legislation Act, s 60



Australian Capital Territory

# Public Sector Management Amendment Standards 2007 (No 4)

Disallowable instrument DI2007-125

made under the

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

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**1 Name of instrument**

This instrument is the *Public Sector Management Amendment Standards 2007 (No 4)*.

**2 Commencement**

This instrument commences on the day after its notification day.

**3 Legislation amended**

This instrument amends the Public Sector Management Standards 2006.

**4 Part 5.6A**

*insert*

**Part 5.6A Appointment of certain Rhodium employees**

**478A Application—pt 5.6A**

This part applies to people who:

- (a) had been employed by Totalcare Industries Limited as at 29 April 2004; and
- (b) were continuously employed by Rhodium from 29 April 2004; and
- (c) are currently employed by Rhodium.

**478B Interpretation—pt 5.6A**

In this part:

*Act* means the *Public Sector Management Act 1994*.

*Chief Executive* means the Chief Executive of Treasury.

*Rhodium* means Rhodium Asset Solutions Limited.

*right of return staff* means the class of people described in section 478A.

*Treasury* means the administrative unit ‘Department of Treasury’ mentioned in schedule 1, column 4 of the *Administrative Arrangements 2007 (No 1)*.

**478C Application of the *Public Sector Management Act 1994***

- (1) The following provisions of the Act do not apply in relation to the operation of this part:
  - (a) Division 5.2 (Personnel management); and
  - (b) Division 5.3 (Appointment of officers).

**478D Application of other provisions of the *Public Sector Management Standards 2006***

- (1) The following provisions of the Standards do not apply in relation to the operation of this part:
  - (a) section 45 (Conditions of entry and advancement); and
  - (b) section 254 (Salary on commencement); and
  - (c) Chapter 6 (Managing grievances, appeals and discipline).

**478E Appointment by the Commissioner**

- (1) The Commissioner will appoint the right of return staff to Treasury.
- (2) Each right of return staff member will be appointed as an unattached officer.
- (3) The Commissioner will make a declaration of the date of appointment of the right of return staff members.
- (4) The Commissioner will, in writing, notify each right of return staff member of his or her date of appointment.
- (5) The Commissioner will, in writing, notify the Chief Executive and the Chief Executive Officer of Rhodium of the date of appointment of the right of return staff.

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- (6) A request may be made by:
    - (a) a right of return staff member; or
    - (b) the Chief Executive; or
    - (c) the Chief Executive Officer of Rhodium;that the Commissioner vary the date of appointment.
  - (7) The Commissioner must consider, on a case by case basis, any request made under subsection (6).
  - (8) A variation to the date of appointment will take effect if it is agreed to in writing by:
    - (a) the Commissioner; and
    - (b) the right of return staff member; and
    - (c) the Chief Executive; and
    - (d) the Chief Executive Officer of Rhodium.
  - (9) The Commissioner will make a declaration of the classification on appointment of the right of return staff.
  - (10) The Commissioner will, in writing, inform each right of return staff member of his or her classification on appointment.
  - (11) The salary on appointment of each right of return staff member will be the same as the base salary he or she received from Rhodium on 7 May 2007.
  - (12) The Commissioner will, in writing, inform each right of return staff member of his or her salary on appointment.
  - (13) A declaration made under this part will be a notifiable instrument.

#### **478F Increment increases**

- (1) The ordinary arrangements for incremental increase under the Standards part 4.3 apply to the right of return staff upon appointment.

- (2) For the purposes of the Standards part 4.3, where the salary of a right of return staff member on appointment is not equal to a standard salary point for the classification at which he or she is appointed, his or her next increment increase will be to the closest salary point above the salary he or she received upon appointment.

**478G Transfer of entitlements**

- (1) To avoid all doubt, the following provisions of the Standards apply to the right of return staff:
  - (a) section 403 (Recognition of prior service for personal leave) as if Rhodium was an approved organisation; and
  - (b) section 416 (Recognition of prior service for long service leave); and
  - (c) section 419 (Prescribed employment for maternity leave).
- (2) The right of return staff will be treated as if they were officers appointed from the Commonwealth for the purposes of the following provisions of the Standards:
  - (a) section 74 (Recognition of previous employment for redundancy); and
  - (b) part 5.5 (Mobility with the Australian Public Service).
- (3) The right of return staff will be taken to have been employed by the Territory for 12 months continually for the purposes of section 447 (Primary care givers' leave).

**478H Voluntary redundancy**

- (1) Having regard to all the circumstances, the Chief Executive may, on a case by case basis, invite the right of return staff to be made voluntarily redundant.
- (2) Where the Chief Executive invites a right of return staff member to elect to be made voluntarily redundant, he or she will have a maximum of one calendar month from the date of the offer in which to advise the Chief Executive of his or her election, and the Chief



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Executive will not give notice of redundancy before the end of the one month period.

- (3) Where the Chief Executive approves an election to be made redundant and gives the notice of retirement in accordance with the Act, the period of notice will be one month, or 5 weeks if the right of return staff member is over 45 years old and has completed at least 2 years continuous service.
- (4) Where the Chief Executive so directs, or the right of return staff member so requests, the right of return staff member will be retired at any time within the period of notice under subsection (3), and he or she will be paid in lieu of salary for the unexpired portion of the notice period.
- (5) Despite the preceding subsections, the Chief Executive may make an invitation under subsection (1) before the date of appointment determined under section 478E.
- (6) If an invitation is made before the day of appointment pursuant to subsection (5), the Chief Executive and the right of return staff member may agree that the date of retirement will be the day after the date of appointment and subsections (3) and (4) will not apply.
- (7) In the absence of an agreement under subsection (6), subsections (2), (3) and (4) will apply provided that the notice of appointment under subsection (3) may only commence on or after the date of appointment.
- (8) A right of return staff member who elects to be made redundant in accordance with this section will be entitled to be paid either of the following, whichever is the greater:
  - (a) a sum equal to two weeks salary for each completed year of continuous service, plus a pro rata payment for completed months of continuous service since the last year of continuous service (the maximum sum payable under this paragraph will be 48 weeks salary); or
  - (b) 26 weeks salary.

- (9) To avoid all doubt, all continuous service with Rhodium and Totalcare Industries Limited will count as service when calculating payment made under subsection (8).
- (10) For the purpose of calculating any payment in lieu of notice or part payment thereof, the salary the right of return staff member would have received had he or she been on recreation leave during the notice period, or the unexpired portion of the notice period as appropriate, will be used.
- (11) For the purpose of calculating payment under subsection (8), allowances in the nature of salary will be included if approved by the Chief Executive.

**478I Transfer of personnel files**

Personnel files for employees transferred under this part will be transferred with the right of return staff on the date of appointment, and the information may be used as if it had been collected under the Act.

**478J Subsequent transfer**

- (1) The Chief Executive of Treasury may transfer a right of return staff member into a vacant office in Treasury provided the vacant office has the same or equivalent classification to that of the right of return staff member on appointment.
- (2) In consultation with the Chief Executive of Treasury, a chief executive of another administrative unit may transfer a right of return staff member into a vacant office in the relevant administrative unit provided the vacant office has the same or equivalent classification to that of the right of return staff member on appointment.
- (3) A chief executive shall not transfer a right of return staff member to fill a vacant office unless the chief executive has:
  - (a) given the right of return staff member an opportunity to state his or her views in relation to the transfer; and

- (b) considered those views (if any).
- (4) A right of return staff member who is transferred under this section shall be given written notice by the Chief Executive of the transfer.
- (5) This section only applies to each right of return staff member once, and where a right of return staff member has been transferred under this section, this section will not apply to all later transfers of that right of return staff member.

**478K General power of the Commissioner**

The Commissioner may take reasonable action to give effect to the intention of this part.

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**Endnotes**

**1 Notification**

Notified under the Legislation Act on 21 June 2007.

**2 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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