

Australian Capital Territory

## **Public Sector Management Amendment Standards 2009 (No 6)**

**Disallowable instrument DI2009-134**

made under the

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

---

I amend the Standards as set out below.

Catherine Hudson  
Commissioner for Public Administration

19/06/2009

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

Jon Stanhope  
Chief Minister

17/06/2009

---



Australian Capital Territory

# Public Sector Management Amendment Standards 2009 (No 6)

Disallowable instrument DI2009-134

made under the

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

## Contents

---

	Page
1 Name of instrument	2
2 Commencement	2
3 Legislation amended	2
4 Section 29, definition of <i>remuneration</i>	2
5 Section 29, definition of <i>transitional executive</i>	2
6 Section 29A (2)	3
7 Section 34	3
8 Section 35	3
9 Section 36	4
10 Section 37	6
11 Section 42	7
12 Section 589, definition of <i>continuous recognised service</i>	8
13 Section 589, new definition of <i>remuneration</i>	8
14 Section 591 (4)	9
15 Section 592	9

---

**1 Name of instrument**

This instrument is the *Public Sector Management Amendment Standards 2009 (No 6)*.

**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 Section 29, definition of *remuneration***

*substitute*

***remuneration*** means the cash salary remuneration payable to chief executives and executives as set out in Column 2 ‘Remuneration (per annum)’ of Schedule A of Remuneration Tribunal Determination 2 of 2008 ‘Chief Executives and Executives’, effective 1 July 2008, as varied or any determination of the Remuneration Tribunal, which supersedes Determination 2 of 2008, and applies to chief executives and executives.

*Note* Column 2 ‘Remuneration (per annum)’ of Schedule A of Remuneration Tribunal Determination 2 of 2008 ‘Chief Executives and Executives’, effective 1 July 2008, sets out the cash salary component of chief executive and executive remuneration.

**5 Section 29, definition of *transitional executive***

*substitute*

***transitional executive*** means an ACT chief executive or executive who was an ACT Senior Executive Service officer immediately before the commencement of the *Public Sector Management (Amendment) Act 1995* and who has been continuously employed by

---

the Territory from the commencement of the *Public Sector Management (Amendment) Act 1995*.

*Note* Continuous employment with the Territory may include an appointment to a full time statutory office established under Territory legislation.

**6 Section 29A (2)**

*omit*

**7 Section 34**

*omit*

**8 Section 35**

substitute

**35 Special benefits on early termination of contract**

- (1) This section does not apply to transitional executives.
- (2) In this section 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 the Act, section 154 and the Public Sector Management Standards, section 416.
- (3) For the purposes of Act, section 28A and 73, 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, the prescribed benefit payable:
  - (a) is two weeks of remuneration for every completed year of continuous recognised service; and
  - (b) excludes any period of service for which the chief executive or executive has received a special benefit or redundancy type payment in the ACTPS or another jurisdiction; and

- (c) can not exceed 44 weeks of remuneration.
- (4) For the purpose of the Act, section 28A and 73, 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:
  - (a) is two weeks of remuneration for every completed year of continuous recognised service; and
  - (b) excludes any period of service for which the chief executive or executive has received a special benefit or redundancy type payment in the ACTPS or another jurisdiction; and
  - (c) can not exceed one month of remuneration.

## **9 Section 36**

*substitute*

### **36 Special benefits applying to transitional executives on early termination or non-renewal of contract in certain circumstances**

- (1) This section applies to transitional executives.
- (2) In this section 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 the Act, section 154 and the Public Sector Management Standards, section 416.

- (3) For the purpose of the Act, section 28A and section 73 if a transitional executive's contract of employment is terminated as a result of changes to operational requirements that result in substantial change to the nature of the work required under the contract, the prescribed benefit payable:
- (a) is two weeks of remuneration for every completed year of continuous recognised service; and
  - (b) excludes any period of service for which the chief executive or executive has received a special benefit or redundancy type payment in the ACTPS or another jurisdiction; and
  - (c) can not exceed 52 weeks of remuneration.
- (4) For the purpose of the Act, section 28A and section 73, if immediately following the expiration of a transitional executive's existing contract he or she is not offered 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*, the prescribed benefit payable:
- (a) is two weeks of remuneration for every completed year of continuous recognised service; and
  - (b) excludes any period of service for which the chief executive or executive has received a special benefit or redundancy type payment in the ACTPS or another jurisdiction; and
  - (c) can not exceed 52 weeks of remuneration.

- (5) For the purpose of the Act, section 28A and section 73, if immediately following the expiration of a transitional executive's existing contract he or she is offered 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, the prescribed benefit payable:
- (a) is two weeks of remuneration for every completed year of continuous recognised service; and
  - (b) excludes any period of service for which the chief executive or executive has received a special benefit or redundancy type payment in the ACTPS or another jurisdiction; and
  - (c) can not exceed 52 weeks of remuneration.
- (6) For the purpose of the Act, section 28A and 73, if a transitional 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:
- (a) is two weeks of remuneration for every completed year of continuous recognised service; and
  - (b) excludes any period of service for which the chief executive or executive has received a special benefit or redundancy type payment in the ACTPS or another jurisdiction; and
  - (c) can not exceed one month of remuneration.

## **10 Section 37**

### **37 Payment in lieu for notice period**

- (1) Where notice is required under a chief executive or executive 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.



- (2) A payment made in lieu of notice under this section is in addition to a payment made under the Standards, sections 35 or 36.

## **11 Section 42**

### **42 Superannuation**

- (1) This section applies to:
- (a) any person engaged under a contract as a chief executive or executive, on and from 1 July 2006; 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) who was engaged or appointed under the Act before 30 June 2006, where the subsequent engagement as a chief executive or executive would be continuous with employment commenced before 30 June 2006; or
    - (iii) who was engaged or appointed to the Territory under Territory legislation before 30 June 2006, where the subsequent engagement as a chief executive or executive would be continuous with employment commenced before 30 June 2006.
- (2) 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 chief executive or executive's remuneration; or
  - (b) 10% of the chief executive or executive's remuneration, if the chief executive or executive contributes 3% or more of his or her remuneration to the agreed superannuation fund nominated

by the chief Executive or executive in the form of personal superannuation contributions.

- (3) 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.
- (4) This amount is the personal superannuation contributions of the chief executive or executive to the nominated superannuation fund.
- (5) The value of the employer's superannuation contribution must not be paid in cash to a chief executive or executive.

**12 Section 589, definition of *continuous recognised service***

*after*

section 154

*insert*

and the Public Sector Management Standards, section 416

**13 Section 589, new definition of *remuneration***

*insert*

***remuneration*** means the cash salary remuneration payable to full time statutory office holders as set out in Column 2 of Table 1.1 of Remuneration Tribunal Determination 3 of 2008 'Full-Time Holders of Public Office', effective 1 July 2008, as varied or any determination of the Remuneration Tribunal, which supersedes Determination 3 of 2008, and applies to full time statutory office holders.

*Note* Column 2 of table 1.1 of Remuneration Tribunal Determination 3 of 2008 'Full-Time holders of Public Office', effective 1 July 2008, sets out the cash salary component of full time statutory office holder remuneration.

**14 Section 591 (4)**

*insert*

- (4) A payment made in lieu of notice under this section is in addition to a payment made under the Standards, section 592.

**15 Section 592**

*substitute*

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:

- (a) of two weeks of remuneration for every completed year of continuous recognised service;
- (b) excluding any period of service for which the statutory office holder has received a special benefit or redundancy type payment in the ACTPS or another jurisdiction; and
- (c) up to a maximum of 44 weeks of remuneration.

---

**Endnotes**

**1 Notification**

Notified under the Legislation Act on 29 June 2009.

**2 Republications of amended laws**

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

---

© Australian Capital Territory 2009