

Public Sector Management Amendment Standards 2011 (No 4)

Disallowable instrument DI2011-160

made under the

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

I amend the Standards as set out below.

Andrew Kefford
Acting Commissioner for Public Administration

Date 29 June 2011

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

Katy Gallagher
Chief Minister

Date 29 June 2011

J2011-249

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

Contents

	Page
1 Name of instrument	1
2 Commencement	1
3 Legislation amended	1
4 Second jobs Section 11 (1)	1
5 Section 11 (3)	1
6 Interpretation—div 2.1.3 Section 14, definition of <i>Audit Committee</i>	2

Contents

	Page	
7	Fraud and corruption prevention Section 15 (1)	2
8	Commissioner for Public Administration responsibilities Section 24 (3)	2
9	Temporary employee registers Section 36 (1)	2
10	Interpretation—pt 3.3 Section 40, definition of <i>officer</i>	3
11	Recognition of prior service—personal leave Section 60 (1) (a)	3
12	Recognition of prior service—annual leave loading New section 63 (1) (aa)	3
13	Section 63 (1) (a)	3
14	Recognition of prior service—long service leave Section 64 (1) (a)	3
15	Recognition of prior service—paid maternity leave and primary care giver leave Section 65 (2) (a)	4
16	Recognition of prior service—Commissioner discretion Section 68 (2)	4
17	Eligibility requirements Section 178 (1)	4
18	Section 178 (2)	4
19	Part 5.3 heading, note 2, paragraph (b)	5
20	Air travel class and booking Table 524, column 1	5
21	Accommodation rating and booking Table 525, column 1	5
22	Frequent Flyer Program Section 535 (3)	5
23	Other circumstances Section 599	6
24	Allowance in lieu of right of private practice—pathologists Section 612 (2) (b)	6
25	Allowance in lieu of right of private practice—specialists other than pathologists Section 613 (b)	6

Contents

	Page	
26	Section 618	7
27	Determining work value New section 620 (1)	7
28	Section 621	7
29	Circumstances where work value assessment not required Section 622 (1) (b)	8
30	New section 622 (3) and (4)	8
31	Division 9.2.1 heading	8
32	Section 623	9
33	Performance management Section 624	9
34	Declaration of interests Section 625 (1)	9
35	Section 625 (2)	10
36	Section 625 (2) (c)	10
37	External employment Section 626 (2)	10
38	Section 627	10
39	Section 629	11
40	Section 629 (as amended)	11
41	Section 630	11
42	Interpretation—pt 9.3 Section 631, definition of <i>remuneration</i> and note	12
43	Section 632	12
44	Section 633 heading	14
45	Section 633 (1)	14
46	Section 634 heading	14
47	Section 634 (3)	15
48	Section 634 (3) (b)	15
49	Section 634 (4)	15
50	Section 634 (4) (b)	15
51	Section 636 heading	16
52	Section 636 (1)	16
53	Section 636 (2)	16
54	Section 636 (2) (a) and (b)	16

Contents

	Page
55	Section 636 (3) and (4) 17
56	Section 636 (5) 17
57	Application—pt 9.4 Section 637 (n) 17
58	New section 637 (ra) 17
59	Appointment or engagement of former statutory office holders Section 641 (2) and (3) 17
60	Section 641 (4) 18
61	Application—pt 9.5 Section 643 (1) 18
62	Interpretation—pt 9.5 Section 644, definition of <i>executive</i> , new paragraph (aa) 18
63	Section 644, definition of <i>executive vehicle</i> 18
64	Change to payment in lieu of an executive vehicle entitlement Section 649 (b) 19
65	Executive vehicle modification New section 650 (2A) 19
66	Application—pt 9.6 Section 657 (1), new paragraph (aa) 19
67	Interpretation—pt 9.6 Section 658, definition of <i>decision maker</i> , new paragraphs (aa) and (ab) 20
68	Section 658, definition of <i>decision maker</i> , paragraph (b) 20
69	Section 658, definition of <i>executive</i> 20
70	Entitlement—personal leave Section 664 (1), definition of <i>short term executive</i> , new paragraph (aa) 21
71	Entitlement—purchased leave Section 692 (7) 21
72	Types of other leave Table 766A, column 3 21
73	Table 766A, columns 4, 6 and 7 22
74	Table 766A, columns 2 and 5 22
75	Dictionary, note 3 22
76	Dictionary, note 3 22
77	Dictionary, definitions of <i>Chief Executive</i> and <i>staff bulletin</i> 22
78	Further amendments, mentions of <i>a chief executive</i> 23

Contents

	Page
79	Further amendments, mentions of <i>a Chief Executive</i> 24
80	Further amendments, mentions of <i>administering chief executive</i> 24
81	Further amendments, mentions of <i>chief executive</i> 25
82	Further amendments, mentions of <i>chief executive</i> 25
83	Further amendments, mentions of <i>Chief Executive</i> 26
84	Further amendments, mentions of <i>Chief Executive</i> 27
85	Further amendments, mentions of <i>Chief Executives</i> 28
86	Further amendments, mentions of <i>chief executive's</i> 29
87	Further amendments, mentions of <i>relevant chief executive</i> 29
88	Further amendments, mentions of <i>relevant chief executive</i> 30
89	Further amendments, mentions of <i>relevant Chief Executive</i> 31
90	Further amendments, mentions of <i>Commissioner</i> 32
91	Further amendments, mentions of <i>department</i> 33
92	Further amendments, mentions of <i>departmental</i> 33

1 Name of instrument

This instrument is the *Public Sector Management Amendment Standards 2011 (No 4)*.

2 Commencement

This instrument commences on the commencement of the *Public Sector Management (One ACT Public Service) Amendment Act 2011*, section 3.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This instrument amends the *Public Sector Management Standards 2006*.

**4 Second jobs
Section 11 (1)**

omit

Chief executive of an agency

substitute

head of service

5 Section 11 (3)

omit

their Chief executive

substitute

the head of service

**6 Interpretation—div 2.1.3
Section 14, definition of *Audit Committee***

before

Department

insert

then

**7 Fraud and corruption prevention
Section 15 (1)**

omit

section 29 (1)

substitute

section 28AA

**8 Commissioner for Public Administration responsibilities
Section 24 (3)**

after

Chief Minister

insert

and the head of service

**9 Temporary employee registers
Section 36 (1)**

omit

Administering Chief Executive

substitute

head of service

**10 Interpretation—pt 3.3
Section 40, definition of *officer***

omit

and

substitute

an

**11 Recognition of prior service—personal leave
Section 60 (1) (a)**

omit

department or

**12 Recognition of prior service—annual leave loading
New section 63 (1) (aa)**

before paragraph (a), insert

(aa) a person engaged as the head of service under the Act,
section 23C or section 23J; or

13 Section 63 (1) (a)

omit

a chief executive office

substitute

an office of director-general

**14 Recognition of prior service—long service leave
Section 64 (1) (a)**

omit

department or

**15 Recognition of prior service—paid maternity leave and primary care giver leave
Section 65 (2) (a)**

substitute

(a) with a Commonwealth department or agency or ACT government agency; or

**16 Recognition of prior service—Commissioner discretion
Section 68 (2)**

omit

Commissioner's

substitute

head of service's

**17 Eligibility requirements
Section 178 (1)**

before

this

insert

in

18 Section 178 (2)

after

comparable

insert

qualifications

19 Part 5.3 heading, note 2, paragraph (b)

substitute

(b) in any other case, the prescribed procedures.

**20 Air travel class and booking
Table 524, column 1**

omit

Chief Executives and Executives

substitute

Head of service, Directors-General and Executives

**21 Accommodation rating and booking
Table 525, column 1**

omit

Chief Executive

substitute

Head of service and Directors-General

**22 Frequent Flyer Program
Section 535 (3)**

substitute

- (3) The head of service is accountable for ensuring that points earned by directors-general are used to the maximum benefit of the ACT Public Service.
- (4) Directors-general are accountable for ensuring that points earned by executives and non-executives are used to the maximum benefit of the ACT Public Service.

**23 Other circumstances
Section 599**

omit

commissioner

substitute

head of service

**24 Allowance in lieu of right of private practice—
pathologists
Section 612 (2) (b)**

omit

ACT Department of Health

substitute

Health Directorate

**25 Allowance in lieu of right of private practice—specialists
other than pathologists
Section 613 (b)**

omit

ACT Department of Health

substitute

Health Directorate

26 Section 618

substitute

618 Application—pt 9.1

This part applies to a person employed under any of the following provisions of the Act:

- (a) section 23C;
- (b) section 23J;
- (c) section 28;
- (d) section 30;
- (e) section 72;
- (f) section 76.

**27 Determining work value
New section 620 (1)**

substitute

- (1) The assessed work value in relation to the head of service, or a director-general or executive is the work value obtained by applying the independent job evaluation methodology approved by the head of service.

28 Section 621

omit everything before paragraph (a), substitute

621 Movements in remuneration zone

For the Act, section 23E (2) (b), section 28AB (2) (b) and section 72A (2) (b), a variation to a contract may increase the remuneration payable to the head of service or a director-general or executive if—

29 **Circumstances where work value assessment not required**
Section 622 (1) (b)

substitute

- (b) a new administrative unit is established and a person is engaged under section 30 to act as director-general of the administrative unit.

30 **New section 622 (3) and (4)**

insert

- (3) The Chief Minister may waive the requirement for an independent job evaluation if a person is engaged under section 23J to act as head of service and the Chief Minister determines the waiver to be in the interests of the Service.
- (4) If the Chief Minister approves a waiver of the requirement for an independent job evaluation, the Chief Minister must determine the remuneration point for the office.

31 **Division 9.2.1 heading**

substitute

Division 9.2.1 Executive responsibilities

32 Section 623

substitute

623 Application—div 9.2.1

This division applies to a person employed under any of the following provisions of the Act:

- (a) section 23C;
- (b) section 23J;
- (c) section 28;
- (d) section 30;
- (e) section 72;
- (f) section 76.

**33 Performance management
Section 624**

omit

Chief executives

substitute

The head of service, directors-general

**34 Declaration of interests
Section 625 (1)**

omit

A chief executive

substitute

The head of service, a director-general

35 Section 625 (2)

omit

Declarations by a chief executive or executive

substitute

A declaration

36 Section 625 (2) (c)

omit

chief executive or executive's

substitute

person's

**37 External employment
Section 626 (2)**

omit

An executive

substitute

A director-general or executive

38 Section 627

substitute

627 Application—div 9.2.2

This division applies to directors-general.

39 Section 629

substitute

629 Unauthorised disclosure of information

The head of service or a director-general or executive who leaves the ACTPS to work for another employer must not use confidential information acquired while a member of the ACTPS in their new employment without the approval of—

- (a) for the head of service—the Chief Minister; or
- (b) for a director-general or executive—the head of service.

40 Section 629 (as amended)

relocate to division 9.2.1 as section 626A

41 Section 630

substitute

630 Application—pt 9.3

This part applies to a person employed under any of the following provisions of the Act:

- (a) section 23C;
- (b) section 23J;
- (c) section 28;
- (d) section 30;
- (e) section 72;
- (f) section 76.

42 Interpretation—pt 9.3
Section 631, definition of *remuneration* and note

substitute

remuneration means the cash salary component of remuneration payable to the head of service, director-general and executives.

43 Section 632

substitute

632 Head of service and director-general employment benefit

- (1) This section applies to the head of service and directors-general engaged under the Act, section 23C or section 28.
- (2) The Chief Minister may by instrument approve the payment to a person of an employment benefit under the following conditions:
 - (a) for an employment benefit that is 20% or less of the person's remuneration, the Chief Minister is satisfied of the requirements of subsection (3);
 - (b) for an employment benefit that is more than 20% of the person's remuneration, the Chief Minister—
 - (i) requires an independent job evaluation of the relevant office; and
 - (ii) makes a decision about whether to approve an employment benefit based on—
 - (A) the independent job evaluation; and
 - (B) the requirements of subsection (3); and
 - (C) market rate pressures; and
 - (D) the specialist skill and expert technical knowledge of the person; and

- (E) any other relevant matter; and
 - (iii) is satisfied that it is appropriate to approve the employment benefit under this section.
- (3) The Chief Minister may only approve an employment benefit if satisfied that it is necessary for the attraction to, or retention in, employment of a suitable person as the head of service or a director-general.
- (4) If the Chief Minister approves the payment of an employment benefit, the benefit—
- (a) commences on the date and in the amount stated in the instrument; and
 - (b) unless stated in the instrument, applies for the term of the person's contract; and
 - (c) may, if 20% or less than the person's remuneration, be increased by the Chief Minister at any time during the term of the person's contract; and
 - (d) may be reduced or ended by the Chief Minister if the person's remuneration is increased, but not so as to reduce the amount paid to the person to an amount less than the sum of:
 - (i) the remuneration paid to the person before its increase; and
 - (ii) the benefit.
- (5) To avoid doubt, the payment of an employment benefit is in addition to any remuneration, allowance or entitlement determined by the Remuneration Tribunal under the *Remuneration Tribunal Act 1995*.
- (6) An employment benefit may only be paid in fortnightly pro-rata payments, and is not available as a lump sum payment.

- (7) An employment benefit counts for salary for all purposes including—
- (a) superannuation; and
 - (b) salary when on paid leave; and
 - (c) special benefits payments; and
 - (d) payment in lieu of notice.
- (8) If a person takes leave on reduced pay the person's employment benefit must be reduced on a pro-rata basis.

44 Section 633 heading

substitute

633 Payment in lieu for notice period

45 Section 633 (1)

omit

chief executive

substitute

head of service, director-general

46 Section 634 heading

substitute

634 Special benefit on early termination of contract

47 Section 634 (3)

omit

For the purposes of the Act, section 28A and 73, if a chief executive's or executive's contract

substitute

For the Act, section 23F, section 28A and section 73, if a person's contract

48 Section 634 (3) (b)

omit

chief executive or executive

substitute

person

49 Section 634 (4)

omit

For the purpose of the Act, section 28A and 73, if a chief executive's or executive's contract

substitute

For the Act, section 23F, section 28A and section 73, if a person's contract

50 Section 634 (4) (b)

omit

chief executive or executive

substitute

person

51 Section 636 heading

substitute

636 Superannuation

52 Section 636 (1)

omit

a chief executive or executive

substitute

the head of service or a director-general or executive

53 Section 636 (2)

omit

chief executive or executive

substitute

person

54 Section 636 (2) (a) and (b)

omit

chief executive or executive's

substitute

person's

55 Section 636 (3) and (4)

omit

chief executive or executive

substitute

person

56 Section 636 (5)

omit

a chief executive or executive

substitute

the head of service or a director-general or executive

**57 Application—pt 9.4
Section 637 (n)**

omit

58 New section 637 (ra)

insert

(ra) Work Safety Commissioner; and

**59 Appointment or engagement of former statutory office
holders
Section 641 (2) and (3)**

omit

commissioner

substitute

head of service

60 Section 641 (4)

substitute

- (4) The head of service—
- (a) must consult with the commissioner before giving written consent under this section; and
 - (b) may impose conditions to the consent.

**61 Application—pt 9.5
Section 643 (1)**

omit

chief executives

substitute

the head of service, directors-general

**62 Interpretation—pt 9.5
Section 644, definition of *executive*, new paragraph (aa)**

before paragraph (a), insert

- (aa) a person engaged as the head of service under the Act, section 23C or section 23J; or

63 Section 644, definition of *executive vehicle*

omit

a chief executive

substitute

the head of service or a director-general

**64 Change to payment in lieu of an executive vehicle entitlement
Section 649 (b)**

substitute

- (b) with the agreement of—
- (i) for the head of service—the Chief Minister; or
 - (ii) for any other executive—the head of service, if the head of service—
 - (A) has received a recommendation from the relevant director-general; and
 - (B) is satisfied there are exceptional circumstances that warrant agreement.

**65 Executive vehicle modification
New section 650 (2A)**

insert

- (2A) If the head of service has a disability that affects his or her ability to drive a standard vehicle, the head of service is entitled to the modifications or options the Chief Minister certifies in writing as being reasonably necessary to enable the head of service to drive a vehicle.

**66 Application—pt 9.6
Section 657 (1), new paragraph (aa)**

before paragraph (a), insert

- (aa) a person engaged as the head of service under the Act, section 23C or section 23J; and

**67 Interpretation—pt 9.6
Section 658, definition of *decision maker*, new
paragraphs (aa) and (ab)**

before paragraph (a), insert

- (aa) in relation to a person engaged as the head of service under the Act, section 23C or section 23J, the Chief Minister; and
- (ab) in relation to a person engaged as the director-general of the administrative unit administered by the Chief Minister under section 23D, the Chief Minister; and

Note The head of service may also be engaged as the director-general of the administrative unit administered by the Chief Minister (see the Act, s 23D (1)).

68 Section 658, definition of *decision maker*, paragraph (b)

omit

relevant Minister

substitute

head of service

69 Section 658, definition of *executive*

omit

a chief executive

substitute

the head of service, a director-general

**70 Entitlement—personal leave
Section 664 (1), definition of *short term executive*, new
paragraph (aa)**

before paragraph (a), insert

(aa) engaged on a contract under the Act, section 23C or section 23J for a period of less than 12 months; or

**71 Entitlement—purchased leave
Section 692 (7)**

substitute

(7) If an executive is transferred or reassigned from one ACT government agency to another ACT government agency during the agreed acquittal period, the executive's continuation in the purchased leave scheme is subject to the approval of the agency that would gain the executive.

**72 Types of other leave
Table 766A, column 3**

omit

Commissioner

substitute

head of service or, for leave for the head of service, the Chief Minister

73 Table 766A, columns 4, 6 and 7

omit

Determined in consultation with the Commissioner

substitute

Determined in consultation with the head of service or, for leave for the head of service, the Chief Minister

74 Table 766A, columns 2 and 5

omit

Chief executive

substitute

head of service or, for leave for the head of service, the Chief Minister

75 Dictionary, note 3

omit

- chief executive officer
- office of chief executive

76 Dictionary, note 3

insert

- director-general
- head of service
- government agency
- prescribed

77 Dictionary, definitions of *Chief Executive* and *staff bulletin*

omit

78 Further amendments, mentions of a *chief executive*

omit

a chief executive

substitute

the head of service

in

- section 41 (1), note
- section 43 (6)
- sections 48 and 49
- section 51 (1)
- section 81 (1)
- section 81C
- section 280, definition of *overtime*
- section 286 (1)
- section 287
- section 293 (11)
- section 616 (1)
- section 617 (1)
- section 626 (1)

79 Further amendments, mentions of a *Chief Executive*

omit

a Chief Executive

substitute

the head of service

in

- section 251
- section 577 (1)
- section 615 (7)

80 Further amendments, mentions of *administering chief executive*

omit

administering chief executive

substitute

head of service

in

- section 646 (2) and (3)
- section 647 (8)
- section 648 (2)

81 Further amendments, mentions of *chief executive*

omit

chief executive

substitute

director-general

in

- section 628
- section 631, definition of *transitional executive*
- section 632
- section 635
- section 644, definition of *executive*, paragraph (a)
- section 646 (2) (2nd mention)
- section 646 (3) (2nd mention)
- section 650 (2)
- section 657 (1) (a)
- section 658, definition of *decision maker*, paragraph (b)

82 Further amendments, mentions of *chief executive*

omit

chief executive

substitute

head of service

in

- section 30 (1) (2nd mention)
- section 30 (2)
- section 32 (1) (e)
- section 43 (2) and (4)

- section 43 (6) (2nd mention)
- section 45 (3)
- section 46 (2) (a), (b) and (3)
- section 51 (2)
- section 52 (2)
- section 53 (2) (a)
- section 71 (2) (a)
- section 73 (4) (2nd and 3rd mention)
- section 75 (2)
- section 81C (b)
- section 286 (2nd and 3rd mention)
- section 290 (5)
- section 293 (2), (6) and (7)
- section 593 (3)
- section 606 (2)
- section 610 (1) (2nd mention)

83 Further amendments, mentions of *Chief Executive*

omit

Chief Executive

substitute

director-general

in

- section 12
- sections 15 to 17
- section 521
- section 536 (3)
- sections 540 to 543
- sections 545 to 549

- sections 558 to 561
- section 588 (1)

84 Further amendments, mentions of *Chief Executive*

omit

Chief Executive

substitute

head of service

in

- section 33A
- section 91 (2)
- section 95 (2)
- section 103 (3)
- section 107
- section 115 (2)
- section 124 (1)
- section 128 (1)
- section 136
- section 140
- section 148 (1)
- section 152
- section 156
- section 160
- section 169
- section 174
- section 180 (2)
- sections 182 to 188
- sections 203 to 205
- section 210

- sections 212 and 213
- section 215
- sections 217 and 218
- section 220 (2)
- section 223
- sections 225 to 227
- section 229 (2)
- sections 231 and 232
- section 235
- sections 239 to 242

85 Further amendments, mentions of *Chief Executives*

omit

Chief Executives

substitute

directors-general

in

- section 522 (3)
- section 537 (1)
- section 560 (2)
- section 588 (2)

86 Further amendments, mentions of *chief executive's*

omit

chief executive's

substitute

head of service's

in

- section 46 (2) (a) (ii)
- sections 291 and 292

87 Further amendments, mentions of *relevant chief executive*

omit

relevant chief executive

substitute

director-general

in

- section 31 (1)
- section 36 (2)
- section 650 (1)

88 Further amendments, mentions of *relevant chief executive*

omit

relevant chief executive

substitute

head of service

in

- section 29 (2)
- section 30 (1)
- section 32 (1) and (4)
- section 33
- section 37 (1)
- sections 40 to 46
- section 53
- section 60 (2)
- sections 64 and 65
- section 67
- section 71
- sections 73 to 75
- section 79 (3)
- section 247F
- section 252G
- section 254 (2) (c)
- sections 258 and 259
- section 265
- sections 270 and 271
- sections 281 and 282
- section 288, definitions of *approved medical practitioner* and *case manager*

- sections 289 to 293
- sections 295 to 297
- section 299
- section 302
- sections 306 to 308
- section 593
- section 598 (3)
- section 606 (1)
- section 610 (1)
- section 626 (2)
- section 658, definition of *decision maker*, paragraph (a)
- dictionary, definition of *immediate family*, paragraph (f)

89 Further amendments, mentions of *relevant Chief Executive*

omit

relevant Chief Executive

substitute

head of service

in

- section 6, definition of *core hours*
- section 10, definition of *core hours*
- section 78 (d)
- sections 178 and 179
- sections 236 and 237
- section 294

90 Further amendments, mentions of *Commissioner*

omit

Commissioner

substitute

head of service

in

- section 31 (2)
- section 60 (4)
- section 65 (1) (b)
- section 68 heading
- section 68 (1)
- section 74 (3)
- section 81F (2)
- section 158 (5)
- section 162 (1)
- section 239 (3)
- section 247C (2)
- section 252C
- sections 273 and 274
- section 558
- section 622
- section 650 (2)

91 Further amendments, mentions of *department*

omit

department

substitute

directorate

in

- section 130 (2)
- section 134 (4)
- section 154 (2)

92 Further amendments, mentions of *departmental*

omit

departmental

substitute

directorate

in

- section 92 (3)
- section 96 (3)
- section 100 (3)
- section 104 (3)
- section 108 (3)
- sections 112 and 113
- section 116 (3)
- section 120 (3)
- section 125 (3)
- section 129 (3)
- section 133 (4)

- section 137 (3)
- sections 141 and 142
- sections 145 and 146
- section 149 (3)
- section 153 (3)
- section 157 (4)
- section 161 (3)
- section 165 (3)
- section 170 (3)
- sections 175 and 176

Endnotes

1 Notification

Notified under the Legislation Act on 30 June 2011.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
