

Australian Capital Territory

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2011 (No 1)

Disallowable instrument DI2011-53

made under the

Legislative Assembly (Members' Staff) Act 1989, s 5 (3) (Office-holders may employ staff) and s 17 (4) (Office-holders may engage consultants and contractors)

1 Name of instrument

This instrument is the *Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2011 (No 1)*.

2 Commencement

This instrument is taken to have commenced on 1 July 2010.

3 Dictionary

The dictionary at the end of this instrument is part of this instrument.

Note 1 The dictionary at the end of this instrument defines certain terms used in this instrument.

Note 2 A definition in the dictionary applies to the entire instrument unless the definition, or another provision of the instrument, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this instrument is explanatory and is not part of this instrument.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Revocation

Instrument DI2010-157 is revoked.

6 Determination for Act, s 5 and s 17

This instrument determines conditions subject to which the Speaker may, on behalf of the Territory, hire staff, contractors or consultants under the Act, section 5 or section 17.

7 Application during the period

The conditions determined by this instrument apply to a person holding the office of Speaker while the person holds the office for a period or periods (the *period or periods of office*) within the time beginning on the day this instrument commences and ending on 30 June 2011 or the date this instrument is revoked, whichever is the later.

8 Salary cap

- (1) The Speaker may, on behalf of the Territory, hire staff, consultants or contractors for a term that includes the period or periods of office only while the total amount payable for salary and payments, to all staff, consultants and contractors under the Speaker's hire while the Speaker holds office during the period, does not exceed the annual amount (the *salary cap*) worked out in accordance with the formula in subclause (2).
- (2) The formula for working out the salary cap is—

$$\text{salary cap} = \frac{\$204,035 \times \text{working days}}{261} + \text{carry over} \pm \text{salary pledge}$$

Note 1 If the Speaker is neither a **recipient member** nor a **pledging member** the amount of the **salary pledge** in the above formula is nil.

Note 2 The amount for the annual salary allocation in the above formula includes any paid overtime, but excludes the LAMS allowance payable to employees employed under the applicable collective agreement or enterprise agreement and, where an employee elects, the long service leave allowance and annual leave loading.

- (3) In subclause (2):

carry over means the Speaker's unexpended salary allocation, if any, carried over from the 2009–2010 financial year. The carry over cannot exceed 10% of the Speaker's annual salary allocation for the 2009–2010 financial year.

pledging member means the member who makes the salary pledge.

recipient member means the member who receives the salary pledge.

salary pledge means in the case of a pledging member that part of a pledging member's uncommitted salary allocation which is pledged to a recipient member and that is to be deducted from the salary cap and in the case of a recipient member the total of salary pledges made to the member and that is to be added to the salary cap.

working days means the number of working days the Speaker holds office in the period.

- (4) Despite subclause (1), the Chief Minister may, by written notice to the Speaker, allow the total amount payable for salary and payments, to all staff, consultants and contractors under the Speaker's hire while the Speaker holds office during the period to exceed the salary cap.
- (5) The Chief Minister may only allow the salary cap to be exceeded if—
- (a) an employee on the Speaker's staff takes, or is to take, a period of paid leave exceeding 4 continuous weeks during the period; and
 - (b) the Speaker hires, or is to hire, a replacement employee, contractor or consultant during the employee's absence on paid leave; and
 - (c) the amount by which the salary cap is exceeded, or is to be exceeded, is no more than the amount of salary or payments payable to the employee for the period of leave; and
 - (d) the Chief Minister considers on reasonable grounds that—
 - (i) the requirement for leave is beyond the Speaker's control; and
 - (ii) the Speaker would be, or would have been, unable to exercise his or her functions as Speaker without hiring the replacement during the employee's absence on paid leave.

Dated 13 April 2011.

Jon Stanhope
Chief Minister

Dictionary

(see cl 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this instrument.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- function
- working day.

hire, in relation to an employee on the Speaker's staff, or a contractor or a consultant, means—

- (a) employ the employee; or
- (b) engage the contractor or consultant.

period or periods of office—see clause 7.

salary cap—see clause 8 (1).