

Legislative Assembly (Members' Staff) Deemed Date Of Termination Of Employment Of Members' Staff Direction 2020 (No 1)

Disallowable instrument DI2020-251

made under the

Legislative Assembly (Members' Staff) Act 1989, s 13 (5) (Termination of employment)

1 Name of instrument

This instrument is the *Legislative Assembly (Members' Staff) Deemed Date of Termination of Employment of Members' Staff Direction 2020 (No 1)*.

2 Commencement

This instrument commences on the day after its notification day.

3 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.

4 Definition

In this instrument:

Act means the *Legislative Assembly (Members' Staff) Act 1989*.

member means a member of the Legislative Assembly other than an office-holder.

5 Revocation

DI2015-76 is revoked.

6 Approval for Act, s 13

This instrument directs that the employment of part 3 employees under the Act is deemed not to have been terminated and to have continued, or to continue, until a specified date, section 13.

Note Staff are also employed subject to terms of employment under any award or enterprise agreement under the *Fair Work Act 2009* (Cth) that applies to members' staff.

7 Class of persons to whom this direction applies

This direction applies to the class of persons whose employment ceased, or would have ceased, by the operation of subsection 13(1) of the Act.

8 Termination of employment

- (1) The class of persons to whom this direction applies are deemed to continue in employment until the date of the declaration of the poll or the date that is four weeks after polling day, whichever date is later, where a member—
 - (a) ceases to be a member on the polling day for a general election by virtue of section 10 of the *Australian Capital Territory (Self-Government) Act 1988*; and
 - (b) has nominated for re-election at that general election.
- (2) The class of persons to whom this direction applies are deemed to be on leave without pay until the date of the declaration of the poll, where—
 - (a) their employing member ceases to be a member on the polling day for a general election by virtue of section 10 of the *Australian Capital Territory (Self-Government) Act 1988* and has not nominated for re-election at that general election; and
 - (b) the person has an entitlement to a termination payment under the applicable enterprise agreement and has elected in writing to defer the payment of their termination payment.
- (3) The class of persons to whom this direction applies are deemed to continue in employment until the date that is two weeks after the date on which the employment would otherwise have terminated, where a member—
 - (a) dies; or
 - (b) ceases to be a member in circumstances other than those set out in paragraph (1) or paragraph (2) above.
- (4) The period of deemed continued employment set out:
 - (a) in paragraphs (1) and (3) above constitute notice for the purposes of the *Fair Work Act 2009* and payment for the purpose of any termination payments made pursuant to the applicable enterprise agreement, in respect to part 3 employees who are not subsequently re-employed.
 - (b) in paragraph (2) above will not count as service for the purpose of the accrual of any leave entitlements or any termination payment made pursuant to the applicable enterprise agreement but will not break the continuity of a part 3 employee's employment.
- (5) Notwithstanding the foregoing, the period of deemed continued employment referred to above shall end if, during that period, a part 3 employee resigns in accordance with subsection 13(4) of the Act.

Dated 17 August 2020

Andrew Barr
Chief Minister