

EXPLANATORY STATEMENT

PUBLIC SECTOR MANAGEMENT AMENDMENT STANDARD 2005 (No 6) DISALLOWABLE INSTRUMENT DI2005-83

Public Sector Management Act 1994

Legislative Context

The *Public Sector Management Act 1994* (the Act) regulates the management of the public sector. Section 251 of the Act empowers the Commissioner, with the written approval of the Chief Minister, to make Public Sector Management Standards (the Standards) for the purposes of the Act.

Outline

The amendments to the Standards support the new Human Resource (HR) system for the ACT Public Service (ACTPS). A new HR system, called chris21 will be in place from 1 July 2005. Chris21 is different in functionality from the current pay system and a number of business process changes are required to support the transition to the new system, including changes to the processing of leave entitlements.

There are two main amendments to the Standards dealing with recreation and personal leave. Various other consequential changes are also made to general leave rules, and some changes are made to clarify existing rules.

Recreation leave

Currently, employees receive a credit of 4 weeks recreation leave on 1 January each year for the previous year worked. Under the new HR system, employees will accrue leave daily up to 4 weeks leave per year. A number of provisions in the Standards are linked to the 1 January accrual method. The amendments change a number of provisions in the Standards to recognise the new daily accrual methodology.

The amendment to Standard 3 Part 17 Rule 4 amends the definition of 'available credit' to reflect the new daily accrual of recreation leave.

The amendment to Standard 3 Part 17 Rule 5 makes various changes to recognise the new daily accrual methodology. As recreation leave accrues daily, there is no longer a need to differentiate between the accrual of leave for teachers in schools and non-teaching staff. The amendment also reflects the impact of the new daily accrual methodology on leave accrual when leave not to count as service is taken. Various other provisions are removed, as they are no longer required with the new daily accrual methodology.

The amendment revokes Standard 3 Part 17 Rule 6, as the ability to anticipate leave relates to the 1 January accrual date for the previous year worked. As leave accrues daily and can be used by employees as the leave accrues, there is no longer a need to anticipate leave.

The amendment to Standard 3 Part 17 Rule 8 reflects the new daily accrual methodology, as the calculation of differing hours of duty for the recreation leave credit occurs as the hours change, and is no longer actioned in December for the 1 January accrual date.

The amendment to Standard 3 Part 17 Rule 9 recognises the new daily accrual methodology; in that where the Rule applies, the leave is treated as credited on the day the employee returns to duty rather than the old accrual date of 1 January in the year the employee returns to duty.

Standard 3 Part 17 Rule 10 is also amended to recognise the new daily accrual methodology. References to the old 1 January accrual date are removed, and the leave is treated, where the Rule applies, as being credited on the day the employee returns to duty. The amendment also clarifies the existing rule that an employee accrues a recreation leave credit to which they would have been entitled to under this Part at the commencement of their specified defence service.

The amendment to Standard 3 Part 17 Rule 11 reflects the move to daily accrual by removing references to 1 January accrual date. Deeming rules continue to apply to leave accrued more than 2 years ago. A generic date of 1 July has replaced the 1 January, as employees will accrue their leave at different times. Elements of the Rule have also been restructured to more clearly articulate existing rules about when deeming occurs.

The amendment to Standard 3 Part 17 Rule 12 removes references to anticipating leave. This relates to amendments to Rule 6 (Standard 3 Part 17). A further minor change replaces 'Chapter' with 'Part' as this is the terminology used to describe the Standards.

The amendment to Standard 3 Part 17 Rule 14 includes a number of changes due to the move to daily accrual. The amendments insert a new provision to deal with the transition to daily accrual. This ensures that staff employed before 1 July 2005 will have any part of a month of service at the commencement of employment included in their payment in lieu of recreation leave on cessation of employment. However, this provision does not apply to staff employed before 1 January 1978, as existing calculations relating to inclusion of parts of a month of service do not apply to those staff. Some other provisions have been deleted, as they are no longer relevant with the daily accrual methodology.

The amendment to Standard 3 Part 17 Rule 16 removes the reference to the 1 January accrual date.

Personal leave

The amendment to Standard 3 Part 18 Rule 3 inserts an authority for the recalculation of personal leave on change of working hours. This conversion mechanism is currently included in the Best Practice Notes, which operate as guidance and are not law. Chris21 will automatically re-adjust personal leave credits based on this mechanism.

Consequential changes

The amendment to Standard 3 Part 3 Rule 5 translates existing Rule 4 (Standard 3 Part 16) relating to the impact of leave without pay on the deferral of increments. This Rule has also been reformatted to accommodate the provision relating to leave without pay on the deferral of increments.

The amendment to Standard 3 Part 16 Rule 2 amends the definition of a working month from 22 working days to 30 calendar days. While 22 working days is equivalent to 30 calendar days, the amendment brings the definition in line with the *Employment Conditions Australian Capital Territory Award 2000* (Employment Conditions Award). The

amendment also removes reference to 26 working days for employees that perform duty based on a 6-day week, as the Employment Conditions Award does not recognise this distinction.

The amendment to Standard 3 Part 16 Rule 4 updates the effect of leave without pay on the accrual of personal and recreation leave. The changes to personal leave provide consistency with the rules in the Employment Conditions Award and current Standard 3 Part 18 Rule 3. The changes to recreation leave reflect the impact of the new daily accrual methodology on leave accrual when employees are on leave not to count as service. The changes also clarify the types of leave that do not count for service in accordance with the existing leave provisions in the Standards.

Financial Impact

Any operational costs will be absorbed by agencies.