

## EXPLANATORY STATEMENT

### **PUBLIC SECTOR MANAGEMENT AMENDMENT STANDARD 2002 (No 4) DISALLOWABLE INSTRUMENT No DI2002-181**

*Public Sector Management Act 1994*

#### Legislative Context

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

Section 251 of the Act also provides that the Chief Minister can give a general approval for the making of Standards by the Commissioner for specified purposes. The purposes currently specified include amendments that are consistent with a policy direction previously endorsed by Government and changes of a technical nature, which do not include any significant policy changes, such as changes to clarify existing Standards, updating allowances and correcting typographical errors.

#### Outline

The Commissioner, within the parameters agreed to by the Chief Minister, makes the amendments to the Standards. There are five minor and technical amendments.

The first amendment to Standard 2 Part 1, dealing with Chief Executive and Executive employment, amends the definition of transitional executive to ensure that the definition, as intended, only refers to ACT Chief Executives and Executives. The amendment removes any potential doubt that the definition may also apply to Commonwealth executives of the Commonwealth Public Service at the time the Act came into force in 1994.

The second amendment amends a number of provisions in the Standards to alter the terminology of sick leave to personal leave. Previously, the Standards were amended to reflect the change in terminology from sick leave to personal leave consistent with the former *General Conditions of Award 1998* following the Family Leave Test Case. It appears that the changes were not subsequently made to all the relevant parts of the Standards at the time of the previous amendments. The amendments are consistent with the *Employment Conditions ACT Public Sector Award 2000*.

The third amendment re-orders certain provisions in Standard 2 Part 2 relating to entry to the ACT Public Service. Under the Standard, all permanent vacancies are open to Australian Citizens and permanent residents of Australia except in certain circumstances, including a decision by the Chief Executive to limit the vacancies to only those groups with eligibility rights. The re-ordering of provisions places the provision which limits permanent vacancies to those groups with eligibility rights immediately before the provision that lists those groups with eligibility rights. Previously the provisions were separated. The re-ordering of the provisions will assist with resolving uncertainty about the application of the provision.

The fourth amendment updates the definition of Gazette in the Standards. The definition of Gazette has been amended to refer to the Australian Capital Territory Gazette to provide consistency with previous amendments to the Public Sector Management Act in 1999. These amendments provided that job vacancies and other related matters will be advertised in the Australian Capital Territory Gazette and not the Commonwealth of Australia Gazette. It appears that the consequential amendments to the Standards were not made at the time of the other amendments.

The final amendment updates the legislative reference for vehicle use, both executive and non-executive, in the ACT Public Service to the new ACT legislative framework, known as ACT Road Transport Law. The ACT Road Transport Law, a suite of road transport law, replaces the *Motor Traffic Act 1936*. This amendment relates to Standard 6 (Parts 3 and 4), which places responsibility with a driver of an ACT Public Service vehicle for motor traffic offences while they control the vehicle.

### Financial Impact

Nil.