

## EXPLANATORY STATEMENT

### **PUBLIC SECTOR MANAGEMENT AMENDMENT STANDARDS 2006 (No 1) DISALLOWABLE INSTRUMENT NO DI2006-218**

*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 for Public Administration (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

This amendment supports government budget decisions about superannuation arrangements. In the 2006-2007 Budget, the government announced that all new entrants to the ACT Public Service (ACTPS) would receive 9% employer superannuation contributions, consistent with community standards. In that context a new superannuation provider, First State Super, was selected as the default superannuation provider for new ACTPS staff.

The budget decision also required that access to the Public Sector Superannuation Scheme Accumulation Plan (PSSAP), a Commonwealth Government administered superannuation scheme, be removed for new staff. Following the Superannuation (PSSAP) Approved Authority Exclusion Amendment Declaration 2006 (the exclusion declaration), the PSSAP scheme is closed to new ACTPS staff.

In the context of ensuring retention of PSSAP membership for existing ACTPS staff, another declaration, the Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration (inclusion declaration) was also made.

The inclusion declaration provides that existing ACTPS staff who hold PSSAP membership are able to continue PSSAP membership, while they continue to be employed by the ACTPS. This will allow ongoing staff to continue PSSAP membership.

The amendment to the Standard operates to clarify the circumstances in which existing PSSAP members, who are engaged on a temporary employment basis, can continue PSSAP membership. This will include PSSAP staff employed in the ACTPS before the commencement of the inclusion declaration, and where the temporary staff are:

- engaged under a new employment relationship with the ACTPS, without a break in employment with the ACTPS; or
- engaged on a regular and systematic basis, under a regular work pattern, where the employee has a reasonable expectation of continuing employment in ACTPS. This does not apply where the regular and systematic employment is broken by other employment outside the ACTPS, that is not approved by the relevant chief executive.

The Standard also allows the Commissioner to determine, on a case by case basis, that the Standard applies to a person, such that the person can continue PSSAP membership. The Commissioner, in exercising this discretion, must consider that, in all of the circumstances surrounding the person's employment, the application of the Standard to that person is appropriate. The discretion only applies to existing ACTPS staff, who are PSSAP members, before the inclusion declaration commences.

#### Financial Impact

The amendments are consistent with the 2006-07 Budget. Any increased operational costs will be absorbed by agencies.