

Public Sector Management Amendment Standards 2007 (No 4)

Disallowable instrument DI2007–125

made under the

Public Sector Management Act 1994, s 251 (Management Standards)

EXPLANATORY STATEMENT

Background

The amendment supports the sale of the Territory-owned corporation, Rhodium Asset Solutions Limited (Rhodium). In 2005 when the fleet component of Totalcare Industries Limited (Totalcare) became Rhodium the Territory gave the Totalcare staff transferred to Rhodium an undertaking that they would be offered employment in the ACT Public Service (ACTPS) should Rhodium cease to operate during the life of the *Rhodium Asset Solution Enterprise Bargaining Agreement 2004-2007*. This agreement expires after the sale of Rhodium on 18 October 2007. The decision to sell Rhodium triggered the residual right of former Totalcare staff to be offered employment in the ACTPS.

Appointment of certain Rhodium Employees to the ACTPS

The amendment inserts part 5.6A (Appointment of certain Rhodium employees), into the Public Sector Management Standards (the Standards). Part 5.6A facilitates the right of return by providing legislative mechanisms to appoint the relevant Rhodium employees to the Territory, as set out below:

- Section 478A This section identifies the class of person to whom the right of return offer was made. The operation of the right of return offer is restricted to people who were continuously employed by Rhodium from the date the right of return offer was made on 29 April 2004 to the date the Commissioner for Public Administration (the Commissioner) appoints them to the ACTPS.
- Section 478B This section defines the terms used in Part 5.6A which are not defined in the dictionary section of the Standards, and which have a specific meaning in the context of the part.
- Section 478C These sections identify the provisions of the *Public Sector Management Act 1994* (the PSM Act) and Standards that do not apply and
Section 478D in relation to the appointment of the right of return employees. The excluded provisions prescribe the usual process for appointing people to the Territory, for example, that a person be appointed on probation

or to a salary point in the relevant salary scale. The Rhodium employees to whom the right of return offer is made are in an unusual position as, but for the establishment of Rhodium by the Territory, they would currently be employed by the Territory. Accordingly, it is implicit to the right of return offer that the ordinary appointment processes are not required. The bona fide facilitation of the right of return offer precludes the operation of the ordinary appointment provisions.

Chapter 6 of the Standards has been excluded to allow for the operation of the voluntary redundancy provisions of part 5.6A.

- Section 478E This section provides the mechanism to appoint the right of return staff to the Territory, specifically to the Department of Treasury, as unattached officers. The authority to appoint the staff rests with the Commissioner who has been empowered to declare by notifiable instrument the date of appointment and classification on appointment of the staff. The date of appointment is negotiable, and may be varied subject to the agreement of all the relevant parties. It is intended that any variation to the date of appointment would support the sale process. The salary of the staff is predetermined at the base salary the staff were receiving at Rhodium prior to being appointed to the Territory. It is intended that the classification declared by the Commissioner be that with a salary which aligns most closely to the salary that the staff were receiving from Rhodium prior to being appointed to the Territory.
- Section 478F The salary which the right of return staff members are currently receiving may not align exactly with the standard salary points of the classification at which they are appointed to the Territory. This section is intended to facilitate the transition to a standard salary point, and accordingly to ordinary employment in the Territory for the right of return staff. If after 12 months appointment to the service a staff member has his or her increment deferred, it is intended that when the increment does eventuate the staff member will receive a standard pay point.
- Section 478G Given, but for the establishment of Rhodium, the right or return staff would be employed by the Territory, it is intended that on appointment to the ACTPS, all entitlements that the staff have accrued with Totalcare and Rhodium are transferred as if that prior service had been service with the Territory. Additionally this prior service will count towards the accrual of long service leave, and for the purpose of eligibility to primary care givers' leave.
- Section 478H This section gives the Department of Treasury the option of offering the staff a voluntary redundancy. The invitation of voluntary redundancy can be made before the date of appointment with the retirement able to take effect, at the earliest, on the day after the date of appointment. It is not intended that a voluntary redundancy be

offered to a right of return staff member if a suitable office is available to him or her in the ACTPS, and in particular, in the Department of Treasury. The model for redundancy payments reflects the (Agency) Certified Agreement 2004-2007.

- Section 478I This section provides authority to transfer the personnel files of the right of return staff.
- Section 478J This section is intended to facilitate the transfer of the right of return staff into offices following their appointment to unattached offices to the ACTPS. The unattached officers should be transferred to an office with the same, or equivalent, classification to that which they are appointed to under section 478E. It is intended that suitable offices first be sought in the Department of Treasury, but if more suitable offices exist in another administrative unit, the unattached officers may be transferred to an office in the other administrative unit.
- Section 478K Should a situation arise in association with the appointment of the right of return staff to the Territory; or the transfer of the staff into offices; which is not dealt with, or is ambiguous, under this part, it is intended that the Commissioner be able to take reasonable action to facilitate the appointment or transfer. Additionally, if the base salary that a right of return staff member is receiving from Rhodium increases between 7 May 2007 and the date of appointment, this power is intended to give the Commissioner the power to recognise that salary increase when determining that staff member's salary on appointment. It is not intended that the Commissioner have the power to contradict the provisions of this part.