

Australian Capital Territory

Public Sector Management Amendment Standards 2007 (No 5)

Disallowable instrument DI2007–187

made under the

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

EXPLANATORY STATEMENT

The amendment inserts a new section into the Public Sector Management Standards. Section 29A introduces the discretionary power for the Chief Minister to approve an employment benefit to be paid to chief executives who are engaged under section 28 of the *Public Sector Management Act 1994*. The payment of a chief executive employment benefit counts as salary for all purposes.

The employment benefit is restricted to chief executives engaged on a long-term contract under section 28 of the *Public Sector Management Act 1994*. People engaged as chief executives on a short-term contract under section 30 are not eligible to receive a chief executive employment benefit.

A chief executive employment benefit cannot exceed 20% of the remuneration payable to a chief executive as set out in Column 2 'Remuneration (per annum)' of Schedule A of Remuneration Tribunal Determination 5 of 2007 'Chief Executives and Executives', effective 1 July 2007. Should the format of subsequent Remuneration Tribunal Determinations change, it is intended that the chief executive employment benefit be up to but no greater than 20% of the cash salary of the relevant chief executive remuneration however that component is prescribed by the Remuneration Tribunal. It is not intended that components of chief executive remuneration other than the cash salary be considered when calculating the percentage rate of a chief executive employment benefit.

While it is intended that the Chief Minister have discretion over the allocation of the chief executive employment benefit, the Chief Minister must be satisfied that the payment of the chief executive employment benefit is necessary for the attraction to, or retention in, employment of a suitable person as a chief executive. The Chief Minister may also wish to consider the best interests of the Territory and the best interests of a particular administrative unit when deciding to approve the payment of the benefit. The Chief Minister may, but is not required to, outline in the instrument of approval the circumstances that were considered when deciding to approve the payment of a chief executive employment benefit.

The Chief Minister has discretion over the period for which the chief executive employment benefit is to be paid. The instrument of approval should indicate the date of commencement of the payment, noting the payment may commence retrospectively. The instrument of approval may also indicate a date on which the payment will cease, however, if the Chief Minister does not expressly indicate otherwise, the benefit will apply for the term of the chief executive's contract made under section 28 of the *Public Sector Management Act 1994*.

The Chief Minister has limited discretion over alterations to the percentage of the chief executive employment benefit. If a chief executive employment benefit is less than 20% of a chief executive's remuneration the Chief Minister may increase the amount of the benefit, within the prescribed maximum. The Chief Minister may also decrease the percentage of a chief executive employment benefit. However, a decrease may only occur if the chief executive's remuneration has increased and the reduction would not reduce the total amount (salary plus benefit) paid to the chief executive.

It is not intended that the insertion of section 29A impinge on the powers of the Remuneration Tribunal under the *Remuneration Tribunal Act 1995*. It is intended that the payment of a chief executive employment benefit is in addition to any remuneration, allowance or entitlement determined by the Remuneration Tribunal.