

Australian Capital Territory

Public Sector Management Amendment Standards 2009

Disallowable instrument DI2009–46

made under the

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

EXPLANATORY STATEMENT

Background

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

Section 40 of the Act allows the Commissioner to develop an Equal Employment Opportunity (EEO) Program for the service. Once developed, 40(2) of the Act provides for a standard to be drafted giving effect to the EEO Program so developed.

This amendment to the *Public Sector Management Standards 2006* (the Standards) has been prepared for this purpose: it gives effect to the Indigenous Traineeship Program developed as an EEO Program under the Act.

Detail

Clause 1 — Name of Instrument

This clause clarifies that the instrument will be known under the name ‘*Public Sector Management Amendment Standards 2009*’.

Clause 2 — Commencement

This clause sets the instrument’s day of commencement as the day after it is notified.

Clause 3 — Legislation Amended

This clause makes clear that the instrument intends to amend the *Public Sector Management Standards 2006*.

Clause 4 — Replacement of Division 3.11.1

This clause details the amendment being made.

Section 247 is a summary of what was contained in the previous division 3.11.1. Firstly, it clarifies how Part 3.11 operates in relation to the *Public Sector Management Act 1994*. It connects equal employment opportunity programs developed in accordance with section 39 and 40 of the Act to this part.

The section also explains that EEO programs are approved programs under s.65(3) of the Act, meaning that appointments to the program from designated groups can be made without reference to the usual factors that would be considered discriminatory under the *Discrimination Act 1991*. Of particular relevance to the Indigenous Traineeship Program, ‘designated group’ is defined in the Act at s.39 to include Aboriginal peoples and Torres Strait Islanders.

Section 247 also makes clear that those participating in the EEO program in division 3.11.2 (the Disability Employment Program) are employed under a prescribed scheme. This means that they may be engaged temporarily to perform certain duties in order to gain work experience and enhance their future prospects of participating in the workforce without the relevant chief executive having to first seek someone from within the service to perform those duties.

Sections 247A to F comprise the amended division 3.11.1. The sections detail the new Indigenous Traineeship Program developed under s 40 of the Act.

Section 247A is self-explanatory – it provides definitions for the terms ‘ASO’ and ‘relevant collective agreement’.

Section 247B governs who is entitled to participate in the program, being Aboriginal peoples and Torres Strait Islanders who meet the requirements of section 68 of the Act (that they are an Australian citizen or permanent resident, and that the relevant chief executive considers them to be a fit and proper person for service).

Section 247C stipulates that anyone applying to be an Indigenous Trainee will only be appointed to the program after a selection committee has read each application, considered the merits of each applicant and ranked them in order. This is a merit process common to appointments to the service generally which should be familiar to those with an existing understanding of the employment framework established under the Act and Standards.

Section 247D outlines how participants in the program will be classified – they will be Indigenous Trainees.

Section 247E sets out how much Indigenous Trainees will be paid. Regardless of their age on commencement, trainees are entitled to be paid an equivalent salary to that payable to an Administrative Services Officer, Class 1. The rate is dependant on the collective agreement that applies to the administrative unit the trainee works in.

Section 247F clarifies what happens at the end of the program. Where participants competently fulfil their workplace commitments and are awarded their certificate qualification, they may have the opportunity to be advanced within the Service. A trainee will only be considered to have successfully completed the program where these requirements are satisfied. To make clear, successful completion depends on the trainee’s work performance during the program and the level of qualification attained (a stronger case for advancement could be made for a trainee who completes a Certificate III qualification than one who completes a Certificate II).

Advancement will also depend on the capacity of the work area to accommodate advancement.