

Legislative Assembly (Members' Staff) Continuation of Employment Direction 2009

Disallowable instrument DI2009-47

Legislative Assembly (Members' Staff) Act 1989, s 13 (5) (Termination of employment)

EXPLANATORY STATEMENT

Legislative Context

The *Legislative Assembly (Members' Staff) Act 1989* ("the Act") provides for the employment of staff by members of the Legislative Assembly. Subsection 10(1) of the Act gives members the authority to employ staff. Section 13 of the Act sets out the time when the employment of such persons terminates.

Subsection 13(5) of the Act provides that the Chief Minister may, by written instrument, direct that the employment of a person whose employment is terminated by the operation of subsection 13(1) shall be deemed not to have terminated and to have continued until a specified date. Such a direction is a disallowable instrument.

Outline

This instrument directs that the employment of persons whose employment would have ceased on 20 October 2001 by the operation of subsection 13(1)(b) of the Act, and who subsequently recommenced employment under subsection 5(1) of the Act on either 12 or 13 November 2001, are deemed to have continued in employment during this break period.

The purpose of the instrument is to deem the employment of the above class of persons to have been continuous during the break period between the polling day for the 2001 general election and the date of commencement of a new employment agreement on either 12 or 13 November 2001, for the purpose of calculating the termination entitlement of these persons.

An existing direction, DI2005-291, which provides for the deemed continued employment of staff employed under subsection 10(1) of the Act does not provide for the entire break period for the above class of persons.

This direction will remove any doubt about the legal entitlement of this class of persons to receive a termination payment for the period of their employment up to the date of their re-employment on 12 or 13 November 2001.

Direction

Numbered clauses 1 to 3 contain technical provisions.

Numbered clause 4 specifies the class of person to whom the direction applies. This class is persons whose employment under subsection 10(1) of the *Legislative Assembly (Members' Staff) Act 1989* ceased on 20 October 2001 by the combined operation of subsection 13(1)(b) of that Act and section 10 of the *Australian Capital Territory (Self Government) Act 1988*, and who were subsequently re-employed pursuant to a written agreement under subsection 5(1) of the former Act.

Numbered clause 5 directs that the employment of the above class of persons is deemed to have continued until a specified date. The specified date is 12 November 2001 or 13 November 2001 depending on the applicable date that the person's employment commenced under subsection 5(1) of the Act.