

Australian Capital Territory

Public Sector Management Amendment Standards 2011 (No 3)

EXPLANATORY STATEMENT

Disallowable instrument DI2011–49

Public Sector Management Amendment Standards 2011 (No 3)

EXPLANATORY STATEMENT

Contents

| | Page |
|---|------|
| BACKGROUND | 1 |
| OVERVIEW | 2 |
| DETAIL | 4 |
| 1 Name of instrument | 4 |
| 2 Commencement | 4 |
| 3 Legislation amended | 4 |
| 4 Chapter 2 heading | 4 |
| 5 Part 2.1 | 4 |
| 6 Part 2.2 | 8 |
| 7 Parts 2.3 to 2.5 | 9 |
| 8 Chapter 3 heading | 9 |
| 9 Part 3.1 to 3.9 | 9 |
| 10 Section 85 | 24 |
| 11 Sections 243, definition <i>Independent Reviewer</i> | 24 |

Contents

| | | |
|----|---|----|
| 12 | Section 247A | 24 |
| 13 | Section 248, definition <i>Executive</i> | 25 |
| 14 | Chapters 4 to 6 | 25 |
| 15 | Section 519 | 39 |
| 16 | Section 520, definition of <i>official travellers</i> | 39 |
| 17 | Section 520, new definition of <i>traveller</i> | 39 |
| 18 | Section 527, note | 40 |
| 19 | Section 537(1) | 40 |
| 20 | New sections 539A and 539B | 40 |
| 21 | Section 540(3) and (4) | 40 |
| 22 | Part 7.3 | 40 |
| 23 | Section 557 | 40 |
| 24 | Section 575 | 41 |
| 25 | Section 579 definition organisation registered under the Workplace Relations Act 1996 | 41 |
| 26 | Section 582(3) | 41 |
| 27 | Section 584(6) | 41 |
| 28 | Part 8.5 | 41 |
| 29 | New part 8.7 | 42 |
| 30 | New part 8.8 | 44 |
| 31 | New chapter 9 | 46 |
| 32 | Dictionary definitions | 84 |

BACKGROUND

The proposed amendments are made in the context of the ACT Public Service (ACTPS) legislative employment framework (the Framework). The Framework consists of the *Public Sector Management Act 1994* (the Act), the Public Sector Management Standards (Standards) and industrial instruments applicable to ACTPS employees, which may include Awards, Collective Agreements made under the *Workplace Relations Act 1996* (Cwth), and Enterprise Agreements made under the *Fair Work Act 2009* (Cwth) (Agreements).

On 15 February 2011 Dr Alan Hawke released the *Governing the City State: One ACT Government – One ACT Public Service Report* (the Hawke Report) which provided 76 recommendations around reforming the ACT Public Service. Recommendation 58 identified a need to undertake a systemic and comprehensive review of the Act, its subordinate instruments and the Enterprise Agreements.

The Hawke Report identified that over time the interaction between the PSM Act, Standards and Agreements in relation to some matters has become unnecessarily complicated, making the Framework difficult to interpret.

The PSM Act being derived from the Commonwealth *Public Service Act 1922* (which has since been repealed) was enacted before the existence of Agreements. Given that Agreements are made under Commonwealth legislation, terms and conditions of Agreements prevail over ACT legislation to the extent of any inconsistency. As a result, successive Agreements have seen matters originally covered exclusively in the Act and Standards modified or overridden by Agreements.

Consistent with the Hawke Report recommendation, the proposed amendments to the Standards seek to bring greater alignment between the Standards and other parts of the Framework. However, it is only intended to be an interim measure in anticipation of more significant changes following a more comprehensive review of the entire Framework.

The proposed amendments are nonetheless necessary at this point in time given the passage of the *Public Sector Management Amendment Act 2011* and the commencement of the new Enterprise Agreements.

Even prior to the commission and release of the Hawke Report the ACT Government recognised the need for better cohesion between the various elements of the Framework and agreed for some changes to be made. Many of these changes were structural, involving the relocation of provisions from the Act to the Standards or Agreements and vice versa. Now that the Act and Agreements have been amended, it is essential for the Standards to be amended to ensure the continuity of entitlements and that there are no gaps in the Framework.

OVERVIEW

The proposed amendments fall into four categories: (a) technical amendments, (b) consequential amendments, (c) structural amendments, and (d) substantive amendments. The first three of the four types of amendments collectively constitute the greatest number of amendments.

Structural amendments to the Standards include:

- (1) removal of duplication in joint selection committee provisions between the Act and Standards;
- (2) relocation to the Standards of provisions concerning the composition and reconstitution of joint selection committees, including union agreed, and management-initiated joint selection committees;
- (3) relocation within the Standards of provisions concerning underperforming officers;
- (4) relocation within the Standards of provisions concerning officers who are unable to perform their duties because of physical or mental incapacity;

- (5) removal to industrial instruments operating within the ACTPS at this time of leave entitlements for non-executive staff—other than long service leave;
- (6) relocation to the Standards of long service leave provisions;
- (7) relocation and consolidation within the Standards of provisions for executives, chief executives and statutory office holders to new chapter 9 of the Standards;
- (8) relocation and consolidation within the Standards of provisions for teachers to part 8.2 of the Standards;
- (9) relocation of provisions concerning temporary employment for less than 12 months to part 3.4 of the Standards; and
- (10) relocation to the Standards of provisions concerning notification of appointments and engagements.

Substantive amendments to the Standards include:

- (1) removal of special mobility arrangements for Australian Public Service (the APS) employees and employees from other approved organisations transferring to the ACTPS under former part 5.5 and part 5.6;
- (2) changing the period of effectiveness of a selection committee's recommendation for the filling of a position to 12 months from the previous 6 months;
- (3) changing the qualifying period for access to long service leave to seven years from the previous 10 years; and
- (4) replacing the redundant *Merit Protection (Australian Government Employees) Act 1984* and Merit Protection and Review Agency scheme with the ACTPS Internal Review Procedures and Appeal Mechanism.

DETAIL

1 Name of instrument

This is a technical clause stating the name of the instrument as the *Public Sector Management Amendment Standards 2011 (No 3)*.

2 Commencement

This is a technical clause stating that the instrument commences when the *Public Sector Management Amendment Act 2011* commences.

3 Legislation amended

This is a technical clause stating the instrument being amended as the *Public Sector Management Standards 2006*.

4 Chapter 2 heading

This clause amends the heading of Chapter 2 from 'Ethics' to 'Administration & Management of the Service'. Amended Chapter 2 will include issues concerning ethics (encompassing the full substance of former Chapter 2) and Commissioner powers in relation to the management of the Service.

5 Part 2.1

This clause restructures and renumbers former Chapter 2 to reflect the intent explained in clause 4 above and makes several technical and definitional amendments to former Chapter 2 provisions.

Section 6, definition of *Code of Ethics*

This clause removes the definition of *Code of Ethics*. The amendment is intended to create consistency between the Act, Standards and industrial instruments operating in the ACTPS at this time. The Act and the industrial instruments do not refer to a code of ethics, referring only instead to section 9 of the Act.

Section 9 of the Act contains general obligations of public employees, which in the past has also been referred to as the Code of Ethics. To avoid unintended confusion, section 9 is the primary source for general obligations of ACTPS officers and employees.

Section 6, definition of *manager*

This clause amends the definition of *manager* from being ‘an officer or employee with supervisory and management responsibilities at a range of levels throughout the ACTPS’ to now being ‘a person who has responsibility for planning, organising and leading a work unit or group activity. The amending definition is made to:

- (a) ensure consistency with the industrial instruments operating within the ACTPS at this time;
- (a) ensure greater alignment with current ACTPS practices, given that across the ACTPS some officers and senior officers without the title of manager presently have supervisory or management responsibilities;
- (c) connect formal, legal definitions of manager with ACTPS employment titles; and
- (d) provide more useful and relevant descriptions of the role of manager.

Section 6, definition of *officer*

This clause amends the definition of *officer* and removes reference to ‘Code of Ethics’ consistent with the amendment to remove the definition of *Code of Ethics*.

Section 9(2)

This clause removes a redundant reference to ‘employee’ as ‘officer’ is defined at section 6 to include an employee.

Section 10

Former section 10 has been removed.

This section was formerly section 11 with no substantive change.

Section 10, definition of *Code of Ethics*

Similar to the amendment to former section 6, this clause removes the definition of *Code of Ethics*.

It is intended that former part 2.2 and amended division 2.1.2 apply to officers and employees, excluding chief executives and executives. Issues regarding conflict of interest of chief executives and executives is dealt with under amended section 625.

Section 10, definition of *officer*

This clause removes a redundant definition of *officer*.

Section 11

This section was formerly section 13 with no substantive change.

Directions about executive employment and second jobs in former section 13 have been moved to new Part 9.2, which covers executive responsibilities.

Section 12

Former section 12 has been relocated to new Part 9.2, which covers executive responsibilities.

This section was formerly section 14. The single reference to ‘chief executive’ has been removed. Directions about disclosure of information for chief executives are moved to new Part 9.2.

Part 2.3

Part 2.3 is removed from Chapter 2. Matters dealing with the Commissioner’s responsibilities are relocated to new Division 2.2.2 as explained below.

Chief executives’ responsibilities regarding equity and diversity are moved to new Chapter 9.

Section 13

This section was formerly section 18, and removes the single reference to manager from the scope of application of new Division 2.1.3. Managers are officers or employees. Retaining manager in this section would be redundant.

Section 14, definition of *manager*

Similar to the amendment to former section 6 as explained above, this clause amends the definition of *manager*.

Sections 15 to 18

Sections 15 to 18 were formerly sections 20 to 22 with no substantive change.

Section 19, definitions of *Code of Ethics* and *employees*

Similar to the amendment to former section 6, this clause removes the definition of *Code of Ethics*. This clause also removes the definition of *employee* for consistency purposes.

Section 19, new definition of *officer*

Similar to the amendment to former section 6, this clause amends the definition of *officer*.

Sections 20 to 22

This is a consequential amendment following amendments to former section 6 above that officers includes employees for this part. All former references to ‘employee’ have been replaced by ‘officer’.

6 Part 2.2

This clause amends former Part 2.2 to now cover Commissioner’s functions & powers. This Part is intended to deal with all Commissioner’s functions & powers in one location.

New Division 2.2.1 deals with the Commissioner’s power to declare public holidays in the ACTPS.

New Division 2.2.2 was formerly section 16 which dealt with the Commissioner’s responsibilities for developing and issuing an equal employment opportunity program for the ACTPS.

While it is likely that programs developed under this part will limit the right to equal protection under the law, and may engage the right against discrimination, subsection 27(1)(a) of the *Discrimination Act 1991* provides that an act will not be unlawful if a purpose of the act is to ensure that members of a relevant class or people have equal opportunities with other people.

It is intended that targeted equal employment opportunity programs will be developed for the purpose of promoting better equality in the ACTPS and reducing existing and systemic inequalities that have resulted from long standing discrimination.

7 Parts 2.3 to 2.5

This clause removes former Parts 2.3 to 2.5 as all provisions under this these former parts have been renumbered and relocated under amended Part 2.1.

8 Chapter 3 heading

This clause removes the words ‘ACT Public’ from the Chapter heading to remain consistent with the Act.

9 Part 3.1 to 3.9

Part 3.1 Merit and the selection process

This part deals with merit and selection processes in the ACTPS, which were previously dealt with under former part 3.3 and former section 81.

Part 3.1 combines former:

- (a) section 46 (Advertising);
- (b) section 48 (Tests and examinations);
- (c) Part 3.3 (Merit and the recruitment process); and
- (d) Part 3.4 (Selection process).

Former part 3.1, which dealt with executive employment in the ACTPS is relocated to Chapter 9.

28 Application—pt 3.1

This section amalgamates former sections 49 and 50, and draws in fixed term engagements of more than 12 months. It is reaffirmed in this section that where there are fixed term engagements for more than 12 months, the merit principle must be applied.

29 Identified positions

This section creates a new category of ‘identified positions’. Under this section, the relevant chief executive may determine prior to the commencement of a selection process that a position is an identified position and eligibility for a position will be made specifically available to an Aboriginal person or Torres Strait Islander or a person who has a disability.

It is intended that the creation of identified positions for Aboriginal and Torres Strait Islander people and people with a disability will support the employment of people from these groups, and would also assist the Territory to meet the needs of the community.

It is also intended that section 29 will offer entry level assistance and career pathways, supporting both attraction and retention of people in a designated group, and especially of Aboriginal and Torres Strait Islander people and people with a disability.

As it was acknowledged in the Explanatory Statement to the *Public Sector Management Amendment Act 2011* (the PSMA Act), section 65, the creation of identified positions engages the right to equal protection of the law. However, the displacement of the right is in this circumstance a reasonable limit that can be demonstrably justified in a free and democratic society under section 28 of the *Human Rights Act 2004*.

30 Merit in selection

The content of this section was formerly contained in sections 51 and 52.

To clarify, the Act sets out the merit principle in section 65. The merit principle requires that all eligible people have the opportunity to apply for a vacant position; applicants are assessed comparatively and without unlawful discrimination; and the best person for the position is selected. This section is intended to strengthen the application of the merit principle.

Additionally, amended section 30 places an onus on the relevant chief executive to consider the appropriate means of assessing the comparative abilities of applicants. For example, it may not be appropriate for some positions to require applicants to complete written responses to selection criteria.

It is intended that this will allow the relevant chief executive to choose a selection methodology that suits the occupational requirements of the position they are trying to fill.

As it was acknowledged in the Explanatory Statement to the PSMA Act, section 65, some of the modifications to the merit principle in the Act engage the right to equal protection of the law. However, qualifications of the merit principle in these circumstances is a reasonable limit that can be demonstrably justified in a free and democratic society under section 28 of the *Human Rights Act 2004*.

31 Tests and examinations

This section was formerly section 48, with no substantive change.

32 Advertising

This section deals with matters previously dealt with under former sections 46 and 60(3).

Amended section 32 sets out a default position that vacant positions with a selection process being undertaken under Part 3.1 be advertised in the gazette, but identifies some vacancies where advertising is not required. It is intended that the gazette is a minimum level of advertisement.

This section identifies information which is mandatory in an advertisement, including information which is relevant if a joint selection committee has been established in relation the vacant position.

Amended section 32 also places an onus on the relevant chief executive to be satisfied that the vacancy was sufficiently advertised to provide all eligible people with a reasonable opportunity to apply.

33 Recurring and identical vacancies

This section was formerly section 53, with the following changes:

- (1) a selection committee's recommendation for filling a position can now be used for appointments, transfers or promotions under this section for a period of 12 months instead of the previous 6 months; and
- (2) the Commissioner's ability to extend a recommendation of a selection committee beyond six months has been removed.

33A Notice of appointment and engagement

The substance of this section was formerly contained in ACTPS industrial instruments, with no substantive change.

Part 3.3 Use of joint selection committees in the selection process

Part 3.3 deals with joint selection committees and selection processes for both temporary and non-temporary positions. Provisions contained in this part have been moved from former sections 88 and 89 of the Act and have been made consistent with industrial instruments operating within the ACTPS at this time.

Former provisions relating to the composition of a joint selection committee have been removed from the Act and relocated to sections 42 (Composition of a Joint Selection Committee), 44 (Reconstituting a union agreed Joint Selection Committee) and 46 (Reconstituting a management-initiated Joint Selection Committee).

39 Application—pt 3.3

This section was formerly sections 54, and clarifies the scope of the operation of part 3.3 as relating to transfers and promotion.

40 Interpretation—pt 3.3

This section was formerly section 55. Definitions for *convenor*, *JSC*, *management initiated JSC* and *union agreed JSC* are removed from this part as they are no longer relevant given amendments and additional prescription now provided in part 3.3.

Definitions for *principal union* and *relevant staff organisation* are removed as replacement new definitions are provided in the Act.

41 Procedure of a joint selection committee

The substance of this section was formerly contained in section 90 of the Act, with no significant substantive changes.

42 Composition of a joint selection committee

This section was formerly subsections 56(8) and section 59 of the Standards, and subsections 88(6) and 89(4) of the Act, with the following changes:

- (a) joint selection committees will consist of a chairperson with appropriate skills and experiences, and not a convenor nominated by the Director of the MPRA, given that MPRA no longer appear in the employment framework;
- (b) specific reference to the composition of joint selection committees selecting teachers in former subsection 56 (9) is removed.

43 Establishing a union agreed joint selection committee

The substance of this section was formerly contained in section 57 of the Standards, and section 88 of the Act.

44 Reconstituting a union agreed joint selection committee

The substance of this section was formerly contained in subsections 57 (6) & (7), and 61 (7) of the Standards and subsection 88(11) of the Act, with no substantive change.

45 Establishing a management-initiated joint selection committee

The substance of this section was formerly contained in section 58 of the Standards, and section 89 of the Act.

46 Reconstituting a management-initiated joint selection committee

This section is a consolidation of former subsection 58 (7) of the Standards and subsections section 89 (9) – (11) of the Act, with no major substantive change.

47 Failure to reach a unanimous recommendation – union agreed joint selection committees

This section was formerly subsections 61(1) – (3), with no substantive change.

48 Appealable and non appealable promotions

The substance of this section was formerly contained in section 62 of the Standards and subsection 88(8)(b) of the Act, with no substantive change.

49 Notification of applicants

This section was formerly subsection 63 (3), with no substantive change.

Part 3.4 Appointment

50 Application—pt 3.4

This section was formerly section 64, with the removal of references to Commonwealth officers and divisions 5.4 and 5.8 of the Act.

Division 5.4 of the Act deals with executives. It is intended that part 3.4 only deals with officers and not executives. Originally, executives were officers who were appointed to the ACTPS. This is no longer the case. Since 1995, following amendments to the Act, executives of the ACTPS are engaged on employment contracts.

Accordingly, it is inappropriate to refer to the appointment of executives in this section.

Division 5.8 of the Act, amongst other matters, deals with mobility considerations for Commonwealth officers moving over to the ACTPS following separation of the ACTPS from the Commonwealth PS. While mobility provisions are no longer relevant, it is recognised that the portability of entitlements for people appointed under former mobility provisions can be achieved through the Standards, and can be met without the need for complex and inequitable administrative devices as were previously provided under the Act.

51 Appointment

This section was formerly section 65, with no substantive change. Former subsection 65(4) is relocated to part 8.7 concerning special arrangements for teachers.

52 Eligibility for appointment

This section was formerly section 47, with the removal of section 47 (3).

Given the removal of mobility provisions from the Standards for the reasons set out in amended section 50, reference to eligibility right for former APS officers is no longer needed.

Subsection 2(b) is inserted as a result of former section 592A, which is now amended section 641.

53 Appointment after temporary engagement for 12 months

This section replicates the identified clauses in the following ACTPS industrial instruments which have subsequently been excluded from industrial instruments operating at this time:

- (a) ACTION Union Collective Agreement 2007-2010 (schedule 1, cl. 3);
- (b) Auditor General's Office Union Collective Agreement 2007-2010 (cl. 141);
- (c) CIT Union Collective Agreement 2007-2010 (cl. 144);
- (d) Environment, Climate Change, Energy and Water Union Greenfields Agreement 2008-2010 (cl. 141);
- (e) DET Staff Union Collective Agreement 2007-2010 (cl. 154);
- (f) Clerical, Health Professional, Technical, Health Service Officer's Union Collective Agreement 2007-2010 (cl. 147);
- (g) JACS Union Collective Agreement 2007-2010 (cl. 148); and
- (h) TAMS Union Collective Agreement 2007-2010 (cl. 142).

This section has been introduced to allow for streamlined appointment after temporary engagement for 12 months or more and sets out a series of preconditions which must be met before a person can be appointed under the section.

To clarify, section 53 requires the relevant chief executive to be satisfied that the merit principle has been complied with before they may exercise a function.

Part 3.5 Re-appointment

54 Application—pt 3.5

This section was formerly section 76, with no substantive change.

55 Re-appointment process

This section was formerly section 77, with the omission of section 77(5). Former section 77(5) has been relocated to section 254 (2).

Part 3.6 Recognition of prior service on appointment or engagement**56 Interpretation—pt 3.6**

This section was formerly section 66, with the addition of interpretations of *government*, *government owned*, *industrial agreement*.

57 Recognition of prior service—officer appointed before 23 January 2006

This section was formerly section 67, with the omission of section 67 (1) which has been moved to section 56.

58 Recognition of prior service in Papua New Guinea

The substance of this section was formerly contained in sections 72 and 404, with no substantive changes.

59 Recognition of prior service with a Territory-owned corporation

The substance of this section was formerly contained in sections 74 (3) and 392 with no substantive changes.

60 Recognition of prior service—personal leave

The substance of this section was formerly contained in part 3.7, and sections 68, 403, 416 and 417. While there are significant structural modifications, there are no major substantive changes.

61 Recognition of prior service—operational service personal leave

The substance of this section was formerly contained in section 401.

62 Recognition of prior service—annual leave

This section was formerly section 470 (a), with no substantive change.

63 Recognition of prior service—annual leave loading

This section was formerly section 470 (b), with no substantive change.

64 Recognition of prior service—long service leave

Section 64 (1) was formerly section 416, with no substantive change.

Section 64 (2) was formerly section 417, with no substantive change.

Section 64 (3) was formerly section 412, with no substantive change.

65 Recognition of prior service—paid maternity or primary care giver leave

The substance of this section was formerly contained in sections 418, 419 and 420, with the addition of section 65(4) where prior service will not be recognised as service which will count towards paid maternity leave or paid primary care giver leave if there is any break in service.

-
- 66 Recognition of prior service—redundancy**
The substance of this section was formerly contained in sections 74 and 480, with no substantive changes.
- 67 Recognition of service—reappointment following forfeiture of office**
The substance of this section was formerly contained in subsection 222 (5) of the Act, with no substantive change.
- 68 Recognition of prior service—Commissioner discretion**
This section was formerly section 75, with no substantive change.
- 69 Re-credit of personal leave**
This section was formerly section 392 (8), with no substantive change.

Part 3.7 Promotions

- 70 Interpretation—pt 3.7**
This section was formerly section 453, with the follow interpretations omitted: *JSC* and *MJSC*, and normal power to promote. There is an addition of an interpretation of *appealable level position*.
- 71 Promotion after acting for 12 months**
The substance of this section was formerly contained in clause 15 of ACTPS Collective Agreements, with no substantive change.
- 72 Re-notifying promotions with major errors**
This section was formerly section 456, with no substantive changes.

73 Date of effect of promotions

This section was formerly section 457, with no substantive changes.

74 Multiple Promotions

This section was formerly section 459, with no substantive change.

75 Cancellation of promotion

This section was formerly section 465, with references to ‘gazette’ replaced with references to ‘notification’.

Former subsection 465(1) relating to teachers is relocated to part 8.7.

76 Officers allowed to appeal

This section was formerly sections 509 (1) and 455, with no substantive change.

Part 3.8 Transfer

77 Interpretation—pt 3.8

This section was formerly section 461, with the omission of the interpretation of *normal power to transfer*.

78 Date of effect of transfers

This section was formerly section 462, and is updated to provide for the date of effect to be a date agreed by all parties.

79 Declining transfer

This section was formerly section 463, with the omission of special references to teachers, which is relocated to part 8.7.

80 Salary on transfer

This section was formerly section 256 (1), with no substantive change.

81 Reduction in classification

This section was formerly section 283, with no substantive change.

Part 3.9 Temporary transfer

81A Interpretation—pt 3.9

This section replaces former section 466, and provides a new definition for *temporary transfer*.

81B Appealable directions

This section was formerly section 467, with the following changes:

- (1) the reference to teachers has been relocated to part 8.7;
- (2) the reference to section 102 (2) of the Act has been removed;
and
- (3) the relevant period of temporary performance that can be appealed under this section has been amended to six months from the previous three months.

81C Temporary reduction of classification

This section was formerly section 468, with no substantive change.

81D Salary on temporary transfer

This section was formerly section 256 (2), with no substantive change.

81E Skills and qualifications payments

This section was formerly sections 263 (3) and (5), with no substantive change. Former subsections 263(1) and (2) are relocated to section 276.

81F Periods when higher duties allowance is payable

Some of the substance of this section was formerly contained in former section 288. Former section 288 has been separated into its individual elements, some of which are relocated to this provision and others are relocated to industrial instruments operating in the ACTPS at this time. However, all the separate elements of former section 288 appear in one location or another in the Framework.

81G Higher duties allowance pay points and increments

The substance of this section was formerly contained in sections 289 and 290, with no substantive change.

10 Section 85

85 Training offices

This clause amends section 85 to include a reference to section 71 of the Act, which is intended to apply to training officers.

11 Sections 243, definition *Independent Reviewer*

This is a technical amendment to replace ‘certified agreement’ with current terminology of ‘industrial instruments’.

12 Section 247A

This is a technical amendment removing section 247A, as it is redundant.

13 Section 248, definition *Executive*

The clause removes the definition of *executive* as it is redundant.

14 Chapters 4 to 6**Chapter 4 Conditions of employment and attendance****Part 4.1 Continuity of service****253 Interpretation—pt 4.1**

This section was formerly section 66 with the omission of the definition for *public authority* and the inclusion of the substance of former section 73 as a new definition of *full time training*.

254 Continuity of service—general

The substance of subsection 254(1) is drawn from former section 155 of the Act and section 69 of the Standards.

The substance of subsection 254(2) is drawn from former sections 69 and 77(5) and brings together all provisions relating to continuity of service for person reappointed to the Service following dismissal, resignation to contest an election or forfeiture of office.

255 Continuity of service—personal leave

The content of this section was formerly contained in subsection 70 (2), with no substantive change.

256 Continuity of service—long service leave

The content of this section was formerly contained in section 155 of the Act. The section is significantly simplified to improve clarity, with no substantive change.

Part 4.2 Attendance and absence

257 Interpretation—Pt 4.2

This section was formerly section 333, with no substantive change.

258 Direction to work outside the officer's span of hours

This section was formerly section 336, with the addition of subsection 342 (6).

259 Unauthorised absences

This substance of this section was formerly contained in sections 338 and 339, with the following omissions:

- (1) former subsection 338 (2); and
- (2) former subsection 339 (2).

Former subsection 338 (4) is included as a Note to the section.

Part 4.3 Long service leave

Part 4.3 Long service leave is amended to incorporate Part 7, Long service leave from the Act.

260 Application—pt 4.3

This section was formerly section 408. The provision simplifies former section 408 to replace unnecessary mention of excluded

persons already listed under section 5 of the Act. Instead amended section 260 affirms the application of section 5 to this part and retains from former section 408 any additional excluded persons not mentioned under section 5 of the Act.

A sign post reference to section 156 of the Act in former section 408 has not been retained given the removal of part 7 of the Act following commencement of the *Public Sector Management Amendment Act 2011*.

261 Interpretation—pt 4.3

The definitions within this section are derived from former sections 148, 149 and 156 of the Act, and sections 409 and 411 of the Standards.

The changes reflected in this section are due to the amalgamation of former interpretations from the Act and Standards, amendment of definitions to reflect the modernised structure and prescription of the provisions and the removal of anachronistic interpretations.

262 Purpose—long service leave

This section is new and has been added to clarify the purpose of long service leave.

263 Eligibility—long service leave

This section has been included to ensure consistency with the industrial instruments operating in the ACTPS at this time.

264 Entitlement—long service leave

The substance of this section was formerly contained in subsections 157 (3) to (5), and sections 160 and 161 of the Act. It is intended that the qualifying period of long service leave be amended from 10

years to seven years consistent with industrial instruments operating in the ACTPS at this time. Aside from the change to qualifying period, there are no other substantive changes.

265 Evidence and conditions—long service leave

This section outlines the procedures for applying for long service leave formerly contained in sections 158 and 159 of the Act and is consistent with industrial instruments operating in the ACTPS at this time. It clarifies the procedures but does not alter past practices.

266 Rate of payment—long service leave

The substance of this section was formerly contained in section 162 of the Act and sections 410 and 411 of the Standards, with no substantive change.

267 Effect of other entitlements—long service leave

This section was formerly section 415, with no substantive change.

268 Access to other entitlements—long service leave

New section 268 sets out an officer's entitlement to access other paid leave during periods of long service leave and an officer's entitlement to access long service leave during certain other periods of unpaid leave.

Part 4.4 Reimbursements

269 Interpretation—pt4.4

This section was formerly section 324, with the definitions of *incidental expenses*, *leave* and *travel expenses* being removed because they are no longer relevant.

270 Life insurance indemnification payments

This section was formerly section 325, with no substantive change.

271 Loss or damage to clothing or personal effects

This section was formerly section 326, with no substantive change.

Part 4.5 Additional requirements for salary and allowances

272 Salary deductions

The content of this section was formerly contained in subsection 257 (2) with no substantive change.

273 Salary for unattached officers

This section was formerly section 259, with no substantive change.

274 Salary on reclassification

This section was formerly section 262, with no substantive change.

275 Skills and qualifications allowance payment while on leave

This section was formerly section 263, with the omission of former subsection 263 (4).

276 First aid allowance for an officer with certain qualifications

This section was formerly section 275, with no substantive change.

277 Calculation of salary for Sunday or public holiday duty

The content of this section was formerly contained in subsections 360 (5) to (8), with no substantive change.

Part 4.6 Additional requirements for increments

278 Deferral of increments—Effect of leave without pay not to count as service

This section was formerly section 282, with no substantive change.

Part 4.7 Additional requirements for managing overtime duty

279 Application—pt 4.7

This section was formerly section 340. The section is reworded to exclude redundant terms such as ‘Award’ and ‘industrial agreement’. There are no substantive changes.

280 Interpretation—pt 4.7

This section was formerly section 341 and is amended to provide definitions consistent with the terminology of industrial instruments operating within the ACTPS at this time.

281 Eligibility for paid meal breaks

This section was formerly subsection 347 (2). The remainder of former section 347 is omitted as the provisions are covered by industrial instruments operating within the ACTPS at this time.

282 Time spent travelling to and from overtime duty

This section was formerly section 350, with no substantive change.

283 Weekend and shift overtime duty

This section was formerly section 351, with no substantive change.

284 Overtime on a public holiday

This section was formerly section 352, with no substantive change.

Part 4.8 Additional requirements for leave**285 Interpretation—pt 4.7**

This section is intended to clarify the definitions of *medical officer* and *officer* for part 4.7.

286 Officer's health a danger to others—personal leave

This section was formerly section 406, with no substantive change.

287 Non-continuous primary care givers' leave

This section was formerly subsection 447 (6). The remainder of former section 447 is omitted as the provisions are covered by industrial instruments operating within the ACTPS at this time.

Chapter 5 Redeployment, retirement and cessation of employment

Part 5.1 Redeployment

Division 5.1.1 Officers who are unable to perform duties appropriate to their classification—physical or mental incapacity

288 Interpretation—div 5.1.1

This section was formerly section 482, with the addition of a definition for *registered medical practitioner*.

289 Case summary—non-compensation cases

This section was formerly section 483, with no substantive change.

290 Health assessment—non-compensation cases

This section was formerly section 484, with the omission of former subsection 484 (2) which dealt with a direction to attend a health assessment as this matter is covered by industrial instruments operating within the ACTPS at this time.

291 Implementation of health assessment report—non-compensation cases

This section was formerly section 485, with no substantive change.

292 Disputing the fitness for duty decision—non-compensation cases

This section was formerly section 486, with no substantive change.

293 Medical review panels—non-compensation cases

This section was formerly section 487, with no substantive change.

Division 5.1.2 Officer not qualified to perform duties

294 Notifying loss of qualification

This section was formerly section 489, with no substantive change.

295 Voluntary redeployment

This section was formerly section 490, and is amended to replace references to ‘reduction’ with ‘redeployment’ consistent with industrial instruments operating within the ACTPS at this time to provide greater flexibility in the movement of an officer dependant on the individual circumstances.

Part 5.2 Retirement of an officer from Service

296 Application—pt 5.2

The content of this section was formerly contained in Parts 5.10 and 5.11 of the Standards. The former provisions have been combined and simplified.

The principles of natural justice and procedural fairness apply to the provisions under this part as they would apply to all provisions where a decision is required to be made under the Act or Standards that may be captured by administrative law processes. Accordingly, the decision maker in making a decision under Part 5.2 must be satisfied on reasonable grounds of the matters listed under amended section 296.

A decision maker must be able to articulate reasoning, or point to material evidence or justification that would satisfy the matters listed in amended section 296.

The decision maker should consider what is a fair process dependent on the circumstances of each case, meaning that processes may vary from case to case. The fairness of the process used must be able to be articulated and reasoned and should be proportionate under the circumstances.

297 Voluntary retirement

The content of this section was formerly contained in sections 493, 498 and subsection 502 (3). The section combines former provisions for all officers covered by 296 (1) to consent to being retired before formal notice and requiring the relevant chief executive to provide a statement of reasons explaining that the

officer will not be able to appeal where they consent to the retirement.

298 Notice of retirement

The content of this section was formerly contained in section 494, and subsections 498 (2) and 502 (4), with the change that the section now combines former provisions for all officers covered by 296 (1).

In accordance with principles of procedural fairness, notice may take different forms dependant on the circumstances. Notice can be written, verbal or communicated by any other method which enables the recipient to receive and comprehend the information.

Example

Bob has lost vision in both eyes and is unable to personally read written material. He now relies on others to read his correspondence and has voice recognition software on his computer so he can have his emails read to him by the computer. After giving Bob a choice, Jill, the decision maker, can provide Bob with notice over the phone and record the conversation, or Jill can provide Bob with an email with a read receipt.

Part 5.3 Underperformance

For the purposes of Part 5.3, the term underperformance replaces former terminology of inefficiency consistent with the procedures that apply to underperformance by an officer in industrial instruments operating within the ACTPS at this time.

Without limiting the application of the principles of natural justice and procedural fairness, considerations of these principles as explained in amended Part 5.2 above apply to this part.

299 Voluntary retirement

This section was formerly section 501 (1), with no substantive change.

300 Notice of retirement

This section was formerly subsection 501 (2), with no substantive change.

Part 5.4 Termination of probationary appointment

Without limiting the application of the principles of natural justice and procedural fairness, considerations of these principles as explained in amended Part 5.2 previously apply to this part.

301 Application—pt 5.4

This section was formerly section 503 (1), with no substantive change.

302 Termination of probationary appointment

The substance of this section was contained in former section 503, with no substantive change.

Parts 5.5 and 5.6

Former parts 5.5 and 5.6 dealt with mobility of employees from the APS and other approved organisations.

The effect of a ‘deemed transfer’ or ‘deemed promotion’ under former part 5.5 and 5.6, were unnecessarily complex and presented inequities in the treatment of APS and non-APS employees.

It is intended that people who join the ACTPS from the APS will be appointed under usual appointment arrangements, with equal treatment to every other appointee. It is intended that portability of entitlements will be retained through prior service recognition arrangements under part 3.6.

Former parts 5.7 to 5.12 have been relocated to amended parts 5.1 to 5.3.

Part 5.5 Payment in lieu of entitlements on cessation of employment or death

Substituted Part 5.5 brings together all provisions relating to the payment in lieu of accrued entitlements on the cessation of employment with the ACTPS or the death of an officer whilst employed with the ACTPS. These provisions were formerly located within Part 7 of the Act and former Part 4.16 and 4.18 of the Standards. Additionally, the former terminology of ‘recreation leave’ is replaced by the more contemporary terminology of ‘annual leave’.

303 Interpretation—pt 5.5

This section is new and provides definitions for *dependant*, *officer* and *relevant day* for the purposes of Part 5.5.

304 Payment in lieu of annual leave – cessation of employment

The substance of this section was formerly contained in subsections 386 (1) and (4), with no substantive change. Provisions relating to officers employed after 26 October 1966 and after 1 January 1978 but before 1 July 2005 have been removed as they are now redundant.

305 Payment in lieu of annual leave loading—cessation of employment

The substance of subsection 305 (1) was formerly contained in subsection 389 (4). Amended subsection 305 (2) sets out how payment in lieu of annual leave loading is to be calculated.

306 Payment in lieu of annual leave—death

This section was formerly section 387, with no substantive change.

307 Payment in lieu of long service leave – cessation of employment

The substance of this section was formerly contained in sections 158 of the Act and subsections 410 (4) and (5) of the Standards, with the change that the relevant qualifying period for long service leave is seven years rather than 10 years.

308 Payment in lieu of long service leave—death

The substance of this section was formerly contained in sections 413, 414 and 410 (4) & (5). The provisions have been simplified with no substantive change.

309 Payment in lieu of long service leave—members of the teaching service

The substance of this section was formerly contained in subsection 159 (10) and section 166 of the Act. The provisions have been simplified with no substantive change.

Chapter 6

Chapter 6 is omitted as the processes for Internal Review, Appeal and Discipline are located in industrial instruments operating within the ACTPS at this time.

15 Section 519**519 Application—pt 7.1**

This is a technical amendment to remove old award terminology.

16 Section 520, definition of *official travellers*

This clause removes the definition of *official travellers*. It is intended that the definition of *official travellers* be replaced with the definition *traveller*.

17 Section 520, new definition of *traveller*

This clause inserts the definition of *traveller* for the reasons explained in clause 16 above.

18 Section 527, note

This clause removes the note as it no longer serves a function.

19 Section 537(1)

This is a consequential amendment given the amendment to section 520.

20 New sections 539A and 539B

This clause inserts new sections 539A and 539B.

539A Application—pt 7.2

This is a new section inserted to describe the application of part 7.2.

539B Interpretation—pt 7.2

This is a new section to provide a definition of *officer* for part 7.2.

21 Section 540(3) and (4)

This clause substitutes the terminology of ‘ACTPS employee’ with ‘officer’ in line with the amendment at section 539B.

22 Part 7.3

This clause removes part 7.3. Part 7.3 is relocated to new part 9.5 within Chapter 9 which deals with chief executive and executive matters.

23 Section 557

This section is omitted because it is no longer necessary.

24 Section 575

This clause amends section 575 as explained below.

575 Application—pt 8.2

The reference to 1 January 2000 has been removed because it no longer serves a purpose.

25 the Section 579 definition *organisation registered under the Workplace Relations Act 1996*

This clause removes the definition of *organisation registered under the Workplace Relations Act 1996*.

Organisation registered under the Workplace Relations Act 1996 is replaced by a new definition of *relevant union* in the Dictionary of the Act.

26 Section 582(3)

This clause replaces reference to ‘an organisation registered under the *Workplace Relations Act 1996*’ with ‘relevant union’.

27 Section 584(6)

This clause replaces reference to ‘staff organisation’ with ‘relevant union’ consistent with Clause 25.

28 Part 8.5

This clause amends part 8.5 as explained below.

Part 8.5 Rental for ACTPS housing

589 Application—pt 8.5

This section was formerly section 311, with no substantive change.

590 Interpretation—pt 8.5

This section was formerly section 312, with no substantive change.

591 Rental contribution

This section was formerly section 313, with no substantive change.

592 Calculation of rental contribution

This section was formerly section 314, with no substantive change.

593 Increase or decrease in contribution

This section was formerly section 315, with no substantive change.

594 Rental contributions for accommodation in ACTPS housing—rates payable by officers (excluding officers with, but unaccompanied by, dependents)

This section was formerly section 316, with no substantive change.

29 New part 8.7

This clause amends part 8.7 as explained below.

Part 8.7 Special arrangements for teachers

600 Interpretation—pt 8.7

This section provides the definitions for terms specific to this part.

601 Union agreed joint selection committee promotions—teachers

This section was formerly subsections 61 (4) to (6), with no substantive change.

602 Appointment—teachers

This section was formerly subsection 51 (3), with no substantive change.

603 Incremental advancement—casual teachers

This section was formerly subsection 280 (3), with no substantive change.

604 Higher duties—teachers in an isolated district

This section was formerly subsection 288 (8), with no substantive change.

605 Sunday or public holiday duty—teachers

The section was formerly paragraph 359 (3) (c), with no substantive change.

606 Direction to take annual leave—teachers

This section was formerly section 376, with no substantive change.

607 Accrual of annual leave credit—teachers and school assistants

This section was formerly subsection 378(2), with no substantive change.

608 Leave to accompany a domestic partner on a posting—teachers and school assistants

This section was formerly subsection 423 (4), with no substantive change.

609 Duties with an authority of the Commonwealth, a State, another Territory—teachers

This section was formerly subsection 463 (4), with no substantive change.

610 Cancellation at the request of the promotee—teachers

This section was formerly subsection 465 (1), with no substantive change.

611 Temporary performance—appealable directions—teachers

This section was formerly subsection 467(6), with no substantive change.

30 New part 8.8

This clause amends part 8.8 as explained below.

**Part 8.8 Special arrangements—
 pathologists and people covered
 by the ACT Public Sector Medical
 Practitioners Union Collective
 Agreement 2008-2011**

**612 Allowance in lieu of right of private practice—
 pathologists**

This section was formerly section 264, with no substantive change.

**613 Allowance in lieu of right of private practice—specialists
 other than pathologists**

This section was formerly section 265, with no substantive change.

**614 Calculation of salary for Sunday or public holiday duty—
 medical officers**

This section was formerly subsection 360 (2), with no substantive change.

**615 Additional annual leave for career medical officers,
 resident medical officers and registrars**

This section was formerly section 379, with no substantive change.

**616 Leave for specialists and senior specialists—conference
 leave**

The content of this section was formerly contained in section 440, and is amended to separate conference leave from study leave. Study leave is relocated to new section 617.

617 Leave for specialists and senior specialists—study leave

The content of this section was formerly contained in section 440, with no major substantive change.

31 New chapter 9

This clause amends chapter 9 as explained below.

Chapter 9 Executives and statutory office holders

Chief executives, executives and full time statutory office holders (executives and statutory office holders) are not covered by industrial instruments. Various entitlements and conditions of employment are provided to executives and/or statutory office holders by the Standards. Among these are leave entitlements, which, before this amendment, were provided to executive and non-executive staff in former Chapter 4, and former part 3.1.

Chapter 9 of the PSM Standards has been created to consolidate all executive, chief executive and statutory officer holder provisions into one chapter, which now contains new leave provisions which mirror leave entitlements for non-executives.

Statutory office holders received leave entitlements by virtue of Remuneration Tribunal Determination 3 of 2010 ‘Full-time Holders of Public Office’ clause 5 which states that statutory office holders “shall be entitled to the leave or other entitlements as would be available to an executive who is engaged under section 72 of the *Public Sector Management Act 1994*.” This principle is retained in Chapter 9. It is intended that under Part 9.6 statutory office holders have the same leave entitlements as executives.

To support a simpler legislative framework, all other provisions in the Standards that related specifically to executives or statutory office holders have been relocated to Chapter 9, including the following relocations:

- (a) former Chapter 2 (Ethics), Part 2.2 (Conflict of interest), section 12 (Chief Executives and Executives) and section 13 (3) and (4) (Second jobs);
- (b) former Chapter 3 (Employment in the ACT Public Service), Part 3.1 (Chief Executives and Executives);
- (c) former Chapter 7 (Administration and training), Part 7.3 (Executive vehicles); and
- (d) former Chapter 8 (Miscellaneous), Part 8.5 (Statutory office holders).

Part 9.1 Executive work value

618 Application—pt 9.1

This section was formerly section 28 with the omission of a specific reference to the Clerk of the Assembly as this office is a statutory office and is covered by new Part 9.4.

619 Interpretation—pt 9.1

This section was formerly subsection 38 (1), with no substantive change.

620 Determining work value

The substance of this section was formerly contained in subsections 38 (2) and (3), with no substantive change.

To clarify, section 620 requires that the assessed work value in respect of a chief executive or executive position is obtained by applying the independent job evaluation methodology approved by the Commissioner. This methodology divides ranges of determinable work value into three zones which are further subdivided into 12 levels. The executive levels in section 620 underpin executive employment arrangements, including:

- (a) when a recommendation is made to the administering chief executive that an executive office be created under the Act, section 54A, the work value determined by the independent job evaluator forms part of that recommendation;
- (b) the administering chief executive creates an executive office at a specific executive level;
- (c) an executive contract made under the PSM Act section 28, 30, 72 or 76 is issued at the level of the office created by the administering chief executive; and
- (d) the salary paid under the contract is equivalent to the salary determined by the Remuneration Tribunal for the level the office.

621 Movements in remuneration zone

This section was formerly section 39, with no substantive change.

To clarify, section 621 allows an executive contract to be varied to manage remuneration within a zone or within two levels in Zone 3. For a variation to occur there must be a supporting work value assessment and particular conditions must be met.

622 Circumstances where work value assessment not required

This section was formerly section 40, with no substantive change.

Part 9.2 Executive responsibilities

Part 9.2 clarifies the performance and ethical responsibilities of executives, including:

- (a) requiring executives to participate in an annual performance review under section 624;
- (b) requiring executives to complete a formal declaration of interests under section 625; and
- (c) prescribing conditions on the capacity of an executive to engage in employment outside of the ACTPS under section 626.

Division 9.2.1 Executive performance

623 Application—div 9.2.1

Similar to section 619, this section outlines the scope of operation of this part.

624 Performance management

This section was formerly section 41, with no substantive change.

625 Declaration of interests

This section was formerly section 12, with no substantive change.

626 External employment

This section was formerly subsection 13(3), with no substantive change.

Division 9.2.2 Equity and diversity

627 Application—div 9.2.2

This section was formerly section 15, with no substantive change.

628 Chief executive responsibilities

This section was formerly subsections 17 (3) and (4), with no substantive change.

629 Unauthorised disclosure of information

This section adapts and expands section 14 for the purposes of chief executives and executives.

Part 9.3 Executive financial entitlements

630 Application—pt 9.3

Similar to section 619, this section outlines the scope of operation of this part.

631 Interpretation—pt 9.3

This section was formerly section 29, with the omission of the definition for *employer-provided motor vehicle*.

632 Chief executive employment benefit

This section was formerly section 29A, with no substantive change.

To clarify, the approval process for the payment of an employment benefit to a chief executive is divided into two categories based on

the value of the employment benefit as a percentage of a chief executive's remuneration. The two categories are:

- (1) employment benefits that are 20%, or less than 20% of the chief executive's remuneration; and
- (2) employment benefits that are greater than 20% of the executive's remuneration.

For employment benefits that are greater than 20% of the chief executive's remuneration, the approval process is set out in section 632 (2) (b), which does the following:

- (1) requires the Chief Minister, or an appropriate delegate, to get an independent evaluation report from an independent evaluator, which the Chief Minister must then consider when determining whether to approve an employment benefit under section 632 (2) (b);
- (2) requires the Chief Minister to consider section 632 (3);
- (3) enables the Chief Minister to consider market pressures;
- (4) enables the Chief Minister to consider the specialist skill or technical knowledge of the chief executive;

Note The following are relevant questions for determining the significance of a chief executive's specialist skill and technical knowledge:

- Are the chief executive's skills unique or highly specialised, for example, requiring post-graduate qualification for practice or admission to a profession?
- Does the chief executive possess more than one area of specialist skill that is relevant to the office of chief executive? If yes, what is the significance of the other specialist skill?
- Is the chief executive's technical knowledge unique and highly specialised, for example, only people with the chief executive's qualifications and experience possess the level and

kind of technical knowledge that the chief executive possesses?

- Will the chief executive's technical knowledge and specialist skill add value to the office of chief executive?

(5) enables the Chief Minister to consider any other relevant matter.

In applying the 20% rules set out in section 632 (2), it is sufficient to quote, refer to, calculate, or use in any reasonable and practical manner, an amount, as opposed to a percentage. It is only necessary to consider percentages when determining which of the two categories at sections 632 (2) (a) or (b) apply.

Example 1

Chief Executive X (**X**) is approved an employment benefit of \$65,000. X's remuneration is \$350,000. It is sufficient to quote in X's contract of employment that X is approved an employment benefit of \$65,000. It is not a requirement that the amount be quoted as 18.57% (the percentage value of the \$65,000 employment benefit). However, this does not prevent the use of percentages if it is convenient to do so.

633 Payment in lieu for notice period—chief executives and executives

This section was formerly section 37, with no substantive change.

634 Special benefits on early termination of contract—chief executives and executives

This section was formerly section 35, with no substantive change.

635 Special benefits applying to transitional executives on early termination or non-renewal of contract in certain circumstances

This section was formerly section 36, with no substantive change.

636 Superannuation—chief executives and executives

This section was formerly section 42, with no substantive change.

Part 9.4 Statutory office holder financial entitlements

637 Application—pt 9.4

This new section is inserted to provide the scope of the operation of this part.

638 Interpretation—pt 9.4

This section was formerly section 589, with omission of the definition of *chief executive* and *relevant Remuneration Tribunal Determination* which is replaced by the new definition of *remuneration*.

639 Payment in lieu for notice period—statutory office holders

This section was formerly section 591, with the addition of section 639 (1), which clarifies the circumstances where payment in lieu of notice is not possible.

640 Special benefits on early termination of appointment—statutory office holders

This section was formerly section 592, with no substantive change.

641 Appointment or engagement of former statutory office holders

This section was formerly section 592A, with no substantive change.

To clarify section 641 adopts existing provisions within the *Public Sector Management Act 1994* which prohibit the re-engagement of certain former officers and employees during a period covered by a special benefit payment.

The purpose of the section is to ensure that persons who receive or are entitled to a special benefit payment under section 592 because their appointment was ended before the appointment was due to end cannot immediately take up another ACT public sector appointment or position, without the written approval of the Commissioner for Public Administration (the Commissioner).

It ensures that persons must wait until the period covered by the special benefit payment (the relevant period) has elapsed before taking up a further offer of employment by the Territory or its instrumentalities.

Alternatively, where a person makes application to the Commissioner to take up employment with the Territory or a territory instrumentality within the relevant period, the Commissioner may impose conditions in approving further employment.

In this circumstance, conditions imposed by the Commissioner may relate to the following matters:

- a) the length of the relevant period;
- b) entitlement to the special benefit payment;

- c) payment, accrual and/or recognition of any other entitlement; and
- d) any other condition the Commissioner considers is relevant to the interests of the Service.

For example, where the Commissioner approves an application for appointment or engagement to position with the Territory or a territory instrumentality which is to commence immediately following the ending of the person's statutory office appointment, the Commissioner may determine that the special benefit is not payable in the case of a long term appointment/engagement or is to be delayed in the circumstance of a short term appointment/engagement which is made in the interests of the service.

In other circumstances, the Commissioner may agree to reduce the length of the relevant period, but may determine that any remaining period of the relevant period may not be counted as service for the purposes of a subsequent special benefit payment or redundancy.

642 Superannuation – statutory office holders

Subsection 642 (1) was formerly section 593, with no substantive change.

Subsections 642 (2) to (5) were formerly contained in section 595, with no substantive change.

Part 9.5 Executive and statutory office holder vehicle entitlements

The part sets out executive and statutory office holder vehicle entitlements.

643 Application—pt 9.5

This section was formerly section 551A.

644 Interpretation—pt 9.5

This section was formerly section 551, with no substantive change.

645 Executive vehicle entitlement

This section was formerly section 551B, with no substantive change.

646 Executive vehicle entitlement—part time executives

This section was formerly section 551C, with no substantive change.

647 Choice of motor vehicle

This section was formerly section 552, with no substantive change.

To clarify, section 647 prescribes a maximum vehicle value based on the manufacturer's recommended retail price.

Section 647 also contains a requirement limiting an executive's ability to select a vehicle that is a high performance, luxury or prestige vehicle. However, an executive may select a hatchback vehicle for considerations of price and fuel efficiency. Selection of an executive vehicle should balance the interest of ensuring an appropriate image of the ACT Public Service, with the interests of fiscal prudence and environmental sustainability.

The requirement serves to ensure that an appropriate image of the ACT Public Service is promoted by executives. Considerations around this issue are outlined in the whole of government policy for executive vehicle management.

648 Payment in lieu of an executive vehicle entitlement

This section was formerly section 553, with no substantive change.

649 Change to payment in lieu of an executive vehicle entitlement

This section was formerly section 553A, with no substantive change.

To clarify, section 649 strengthens the accountability requirements when an executive switches between electing for use of an executive vehicle and electing for payment in lieu of the executive vehicle. Considerations around accountability under this section are outlined in the whole of government policy for executive vehicle management.

650 Executive vehicle modification

This section was formerly section 554 with no substantive change.

651 Executive vehicle maintenance and running costs

This section was formerly section 554A, with no substantive change.

652 Executive vehicle care

This section was formerly section 554B, with no substantive change.

653 Authorised use of an executive vehicle

This section was formerly section 555, with no substantive change.

654 Business use of an executive vehicle

This section was formerly section 555A, with no substantive change.

655 Private use of an executive vehicle

This section was formerly section 555B, with no substantive change.

656 Record-keeping

This section was formerly section 556, with no substantive change.

Part 9.6 Executive and statutory office holder leave entitlements

Division 9.6.1 General

657 Application—pt 9.6

This new section provides the scope for the operation of this part.

658 Interpretation—pt 9.6

This new section provides the definition of *decision maker* and *executive* for the purposes of this part.

659 Purpose—leave general

This new section describes the purpose for leave in this part.

660 Part time executives

This section is equivalent to clause F1.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

661 Clerk of the Legislative Assembly

This section was formerly section 43 (2), with no substantive change.

662 Non-approval of leave

This section is equivalent to clause F2.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Division 9.6.2 Leave entitlements

Each leave subdivision contains the following sections:

- (1) Purpose – This is intended to be a statement, to assist decision makers to understand the purpose of the leave and the reason why it may or will be granted.
- (2) Eligibility – This is intended to prescribe all eligibility requirements for the leave type. Entitlement – This is intended to prescribe the amount of the leave entitlement; whether it accumulates and, in the case of accumulating entitlements, when and how the entitlement accumulates; and when it is available.
- (3) Evidence and conditions – This is intended to prescribe the form of evidence or other threshold to be met before leave may be approved.
- (4) Rate of payment – This is intended to prescribe whether the leave is with or without pay, whether the leave may be taken at half pay, in the case of leave at half pay whether the leave will count as service as full or half rate.
- (5) Effect on other entitlements – This is intended to prescribe the effect of the leave on other entitlements, specifically, whether the leave is to count as service or not to count as service. This may include the

application of a decision maker's discretion in determining whether a leave will, or will not, count as service.

- (6) Access to other leave entitlements – This is intended to prescribe the relationship between the leave and other forms of leave in terms of the executive or statutory office holder's eligibility to access other forms of leave during an absence on the relevant leave type.

Subdivision 9.6.2.1 Personal leave

Under subdivision 9.6.2.1 personal leave is available to executives and statutory office holders to enable them to be absent from duty:

- (a) because they are unfit for work because of a personal illness, or personal injury;
- (b) to provide care or support to a member of their immediate family, or a member of their household; and
- (c) in extraordinary circumstances.

Personal leave supports the Territory's commitment to a healthy workplace and workforce.

663 Purpose—personal leave

This section is equivalent to clause F4.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

664 Entitlement—personal leave

The content of this section is equivalent to clauses F4.2 to F4.18 of the common terms and conditions Agreement operating in the ACTPS at this time, with the exclusion of clause F4.6, which is not intended to apply to executives.

665 Evidence and conditions—personal leave

The content of this section is equivalent to clauses F4.19 to F4.29 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

666 Rate of payment—personal leave

The content of this section is equivalent to clauses F4.30 to F4.32 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

667 Effect on other entitlements—personal leave

The content of this section is equivalent to clauses F4.33 to F4.36 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

668 Access to other leave entitlements—personal leave

The content of this section is equivalent to clauses F4.37 to F4.41 of the common terms and conditions Agreement operating in the ACTPS at this time, with the addition of subsection 668(6).

669 Personal leave in extraordinary circumstances

This section is equivalent to clause F5 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

670 Infectious disease contacts

This section is equivalent to clause F6 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.2 Compassionate leave

Under subdivision 9.6.2.2 compassionate leave is available to executives and statutory office holders to enable them to be absent from duty when a member of their immediate family or household either has a personal illness or injury that poses a serious threat to the person's life; or dies.

671 Purpose—compassionate leave

This section is equivalent to clause F12.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

672 Entitlement—compassionate leave

The content of this section is equivalent to clauses F12.2 to F12.6 of the common terms and conditions Agreement operating in the ACTPS at this time, with the addition of subsection 672 (5).

673 Evidence and conditions—compassionate leave

The content of this section is equivalent to clauses F12.7 to F12.11 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

674 Rate of payment—compassionate leave

This section is equivalent to clause F12.12 of the common terms and conditions Agreement operating in the ACTPS at this time, with no substantive change.

675 Effect on other entitlements—compassionate leave

The content of this section is equivalent to clauses F12.13 to F12.16 of the common terms and conditions Agreement operating in the ACTPS at this time, with no substantive change.

676 Access to other leave entitlements—compassionate leave

This section is equivalent to clause F12.17 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.3 Operational service personal leave

Under subdivision 9.6.2.3 operational service personal leave enables executives and statutory office holders who have rendered operational service to be absent from duty when they are unfit for work because of a war-caused injury or disease.

677 Interpretation—subdiv 9.6.2.3

This section is equivalent to clause F22.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

678 Purpose—operational service personal leave

This section is equivalent to clause F22.2 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

679 Eligibility—operational service personal leave

This section is equivalent to clause F22.3 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

680 Entitlement—operational service personal leave

The content of this section is equivalent to clauses F22.4, F22.6, F22.8, and F22.10 to F22.11 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

681 Evidence and conditions—operational service personal leave

The content of this section is equivalent to clauses F22.12 to F22.15 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

682 Rate of payment—operational service personal leave

This section is equivalent to clause F22.16 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

683 Effect of other entitlements—operational service personal leave

The content of this section is equivalent to clauses F22.17 to F22.18 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.4 Annual leave

Under subdivision 9.6.2.4 annual leave is available to executives and statutory office holders to enable them to be absent from duty for the purposes of rest and recreation.

684 Purpose—annual leave

This section is equivalent to clause F7.1 of the common terms and conditions Agreement operating in the ACTPS at this time, with no substantive change.

685 Entitlement—annual leave

The content of this section is equivalent to clauses F7.3 and F7.10 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

686 Evidence and conditions—annual leave

The content of this section is equivalent to clauses F7.12 to F7.24 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

687 Rate of payment—annual leave

This section is equivalent to clause F7.25 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

688 Payment in lieu of annual leave

The content of this section is equivalent to clause F7.32 to F7.33 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

689 Effect on other entitlements—annual leave

The content of this section is equivalent to clauses F7.27 to F7.28 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

690 Access to other leave entitlements—annual leave

The content of this section is equivalent to clauses F7.29 to F7.31 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.5 Purchased leave

Under subdivision 9.6.2.5 purchased leave is available to executives and statutory office holders to enable them to be absent from duty to support their work/life balance.

691 Purpose—purchased leave

This section is equivalent to clause F9.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

692 Entitlement—purchased leave

The content of this section is equivalent to clauses F9.3 to F9.9 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

693 Evidence and conditions—purchased leave

The content of this section is equivalent to clause F9.10 to F9.15 of the common terms and conditions Agreement operating in the

ACTPS at this time, with the difference that subsection (4) does not refer to a notice period contrary to clause F9.13.

694 Rate of Payment—purchased leave

The content of this section is equivalent to clauses F9.16 to F9.20 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

695 Effect on other entitlements—purchased leave

The content of this section is equivalent to clauses F9.23 to F9.26 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

696 Access to other leave entitlements—purchased leave

The content in this section is equivalent to clause F9.27 to F9.30 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.6 Long service leave

Under subdivision 9.6.2.6 long service leave is available to eligible executives and statutory office holders to enable them to be absent from duty in recognition of their length of service in the public sector.

697 Interpretation—subdiv 9.6.2.6

This new section provides definitions for terminology specific to this part, and is the equivalent of section 621, and has the same application.

698 Purpose—long service leave

This section is the equivalent of section 262, and has the same application.

699 Entitlement—long service leave

This section is the equivalent of section 264, and has the same application.

700 Evidence and conditions—long service leave

This section is the equivalent of section 265, and has the same application.

701 Rate of payment—long service leave

This section is the equivalent of section 266, and has the same application.

702 Effect of other entitlements

This section is the equivalent of section 267, and has the same application.

703 Access to other entitlements—long service leave

This section is the equivalent of section 268, and has the same application.

Subdivision 9.6.2.7 Maternity leave

Under subdivision 9.6.2.7 maternity leave is available to executives and statutory office holders to enable them to be absent from duty to support her own wellbeing and to care for and bond with a new born child.

704 Purpose—maternity leave

This section is equivalent to clause F14.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

705 Eligibility—maternity leave

This section is equivalent to clause F14.3 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

706 Eligibility—paid maternity leave

The content of this section is equivalent to clauses F14.4 to F14.6 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

707 Entitlement—maternity leave

The content of this section is equivalent to clauses F14.7 to F14.9 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

708 Evidence and conditions—maternity leave

The content of this section is equivalent to clauses F14.16 to F14.19 of the common terms and conditions Agreement operating in the ACTPS at this time.

709 Rate of payment—maternity leave

The content of this section is equivalent to clause F14.21 to F14.24 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

710 Effect on other entitlements—maternity leave

The content of this section is equivalent to clauses F14.25 to F14.28 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

711 Access to other leave entitlements—maternity leave

The content of this section is equivalent to clauses F14.29 to F14.30 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.8 Special maternity leave

Under subdivision 9.6.2.8 paid primary care giver leave is available to executives and statutory office holders to enable them to be absent from duty to care for and bond with a newborn, adopted or foster child.

712 Purpose—special maternity leave

This section is equivalent to clause F15.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

713 Entitlement—special maternity leave

This section is equivalent to clause F15.3 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

714 Evidence and conditions—special maternity leave

The content of this section is equivalent to clause F15.4 to F15.6 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

715 Rate of payment—special maternity leave

This section is equivalent to clause F15.7 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

716 Effect on other entitlements—special maternity leave

The content of this section is equivalent to clauses F15.8 to F5.10 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

717 Access to other leave entitlements—special maternity leave

The content of this section is equivalent to clause F15.11 to F15.12 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.9 Primary care giver leave

Under subdivision 9.6.2.9 bonding leave is available to executives and statutory office holders to enable them to be absent from duty to bond with a new born, adopted or foster child.

718 Purpose—primary care giver leave

This section is equivalent to clause F16.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

719 Eligibility—primary care giver leave

The content of this section is equivalent to clauses F16.2 to F16.5 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

720 Entitlement—primary care giver leave

The content of this section is equivalent to clauses F16.6 to F16.8 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

721 Evidence and conditions—primary care giver leave

The content of this section is equivalent to clauses F16.9 to F16.15, F16.16 to F16.17 and F16.20 of the common terms and conditions Agreement operating in the ACTPS at this time, with no major substantive difference.

722 Rate of payment—primary care giver leave

The content of this section is equivalent to clauses F16.18 and F16.20 of the common terms and conditions Agreement operating in the ACTPS at this time.

723 Effect on other entitlements—primary care giver leave

The content of this section is equivalent to clauses F16.21 and F16.22 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

724 Access to other leave entitlements—primary care giver leave

This section is equivalent to clause F16.23 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.10 Bonding leave

Under subdivision 9.6.2.10 unpaid parental leave is available to executives and statutory office holders to enable them to be absent from duty to care for a child under school age.

725 Purpose—bonding leave

This section is equivalent to clause F18.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

726 Eligibility—bonding leave

The content of this section is equivalent to clauses F18.2 to F18.4 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

727 Entitlement—bonding leave

The content of this section is equivalent to clauses F18.5 to F18.8 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

728 Evidence and conditions—bonding leave

The content of this section is equivalent to clauses F18.9 to F18.13 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

729 Rate of payment—bonding leave

This section is equivalent to clause F18.14 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

730 Effect on other entitlements—bonding leave

The content of this section is equivalent to clause F18.15 to F18.16 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.11 Parental leave

Under subdivision 9.6.2.11 grandparental leave grandparental leave is available to executives and statutory office holders to enable them to be absent from duty to undertake a care giving role to their grandchild.

731 Purpose—parental leave

This section is equivalent to clause F17.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

732 Eligibility—parental leave

This section is equivalent to clause F17.2 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

733 Entitlement—parental leave

The content of this section is equivalent to clauses F17.3 to F17.5 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

734 Evidence and conditions—parental leave

The content of this section is equivalent to clause F17.5 to F17.9 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

735 Rate of payment—parental leave

This section is equivalent to clause F17.10 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

736 Effect on other entitlements—parental leave

The content of this section is equivalent to clauses F17.11 to F17.13 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

737 Access to other leave entitlements—parental leave

The content of this section is equivalent to clauses F17.14 to F17.15 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.12 Grandparental leave

Under subdivision 9.6.2.12 community service leave is available to executives and statutory office holders to enable them to be absent from duty to engage in the following community service activities:

- (a) jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory; or
- (b) a voluntary emergency management activity; or
- (c) other recognised voluntary community service activity.

738 Purpose—grandparental leave

This section is equivalent to clause F19.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

739 Eligibility—grandparental leave

This section is equivalent to clause F19.3 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

740 Entitlement—grandparental leave

The content of this section is equivalent to clauses F19.4 to F19.8 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

741 Evidence and conditions—grandparental leave

The content of this section is equivalent to clauses F19.9 to F19.14 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

742 Rate of Payment—grandparental leave

This section is equivalent to clause F19.15 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

743 Effect on other entitlements—grandparental leave

The content of this section is equivalent to clauses F19.16 to F19.19 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

744 Access to other leave entitlements—grandparental leave

The contents of this section is equivalent to clauses F19.20 to F19.21 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.13 Community service leave

Under subdivision 9.6.2.13 other leave is available to executives and statutory office holders to enable them to be absent from duty for the following purposes:

- (a) accompaniment of a domestic partner on a posting;
- (b) ATSI meetings;
- (c) attendance as a witness;
- (d) blood donation;
- (e) campaign for election;
- (f) ceremonial purposes;
- (g) emergency to cope with a disaster;

- (h) employment associated with compensation;
- (i) employment in the interests of defence or public safety;
- (j) employment in the interests of the ACTPS;
- (k) local government purposes;
- (l) NAIDOC week;
- (m) not provided for elsewhere;
- (n) organ donation;
- (o) religious purposes;
- (p) returned soldiers; or
- (q) sporting events.

745 Purpose—community service leave

This section is equivalent to clause F13.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

746 Entitlement—jury service

This section is equivalent to clause F13.2 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

747 Evidence and conditions—jury service

The content of this section is equivalent to clauses F13.4 to F13.5 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

748 Rate of payment—jury service

The content of this section is equivalent to clauses F13.6 to F13.7 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

749 Effect on other entitlements—jury service

The content of this section is equivalent to clauses F13.8 to F13.9 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

750 Eligibility—voluntary emergency management

This section is equivalent to clause F13.10 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

751 Entitlement—voluntary emergency management

The content of this section is equivalent to clauses F13.12 to F13.14 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

752 Evidence and conditions—voluntary emergency management

The content of this section is equivalent to clauses F13.15 to F13.17 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

753 Rate of payment—voluntary emergency management

This section is equivalent to clause F13.20 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

754 Effect on other entitlements—voluntary emergency management

The content of this section is equivalent to clauses F13.21 to F13.22 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

755 Additional leave—voluntary emergency management

This section is equivalent to clause F13.23 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

756 Entitlement—voluntary community service

The content of the section is equivalent to clauses F13.25 to F13.26 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

757 Evidence and conditions—voluntary community service

The content of this section is equivalent to clauses F13.28 to F13.33 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

758 Rate of Payment—voluntary community service

This section is equivalent to clause F13.35 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

759 Effect on other entitlements—voluntary community service

The content of this section is equivalent to clause F13.36 to F13.38 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

760 Access to other entitlements—voluntary community service

This section is equivalent to clause F13.39 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.14 Other leave

Subdivision 9.6.2.14 sets out public holidays for which executives and statutory office holders and statutory office holders are eligible.

761 Purpose—other leave

The content of this section is equivalent to clause F20.1 to F20.2 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

762 Eligibility—other leave

This section is equivalent to clause F20.3 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

763 Entitlement—other leave

This section is equivalent to clause F20.4 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

764 Evidence and conditions—other leave

The content of this section is equivalent to clauses F20.5 to F20.9 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

765 Rate of payment and effect on other entitlement—other leave

The content of this section is equivalent to clauses F20.10 to F20.12 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

766 Access to other leave entitlements—other leave

This section is equivalent to clause F20.13 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

766A Types of other leave

This section is equivalent to Annex D of the common terms and conditions Agreement operating in the ACTPS at this time, with the difference that:

- (1) leave to attend proceedings at Fair Work Australia is not reflected in table 766A; and
- (2) leave to hold a full-time office in a staff organisation is not reflected in table 766A.

Subdivision 9.6.2.15 Public holidays

Under subdivision 9.6.2.15 Christmas shutdown is available to executives and statutory office holders to enable them to be absent from duty for purposes of operational efficiency.

767 Entitlement—public holidays

This section is equivalent to clause F10.2 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

768 Rate of payment—public holidays

The content of this section is equivalent to clauses F10.3 to F10.6 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

769 Effect on other entitlements—public holidays

The content of this section is equivalent to clauses F10.7 to F10.8 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

Subdivision 9.6.2.16 Christmas shutdown

770 Purpose—Christmas shutdown

This section is equivalent to clause F11.1 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

771 Entitlement—Christmas shutdown

The content of this section is equivalent to clauses F11.3 to F11.6 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

772 Rate of payment—Christmas shutdown

This section is equivalent to clause F11.7 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

773 Effect on other entitlements—Christmas shutdown

This section is equivalent to clause F11.8 of the common terms and conditions Agreement operating in the ACTPS at this time, and has the same application.

32 Dictionary definitions

This clause amends the dictionary as explained below.

Dictionary, definition of *ABS*

ABS has been removed given that it does not appear in any provision of the Standards.

Dictionary, definition of *ACTGS*

ACTGS has been removed to ensure references to the ACT Public Service are consistent throughout the Act, Standards and industrial instruments operating in the ACTPS at this time.

Dictionary, definition of *Agency*

The definition of *Agency* has been removed given that is defined in the Act.

Dictionary, definition of *Award*

The term *Award* is now redundant and has been replaced with *industrial instrument* as defined in the Act.

Dictionary, definition of *Certified Agreement*

The definition *Certified Agreement* is now redundant and has been replaced with *industrial instrument* as defined in the Act.

Dictionary, definition of *Consequential and Transitional Provisions Act*

The definition *Consequential and Transitional Provisions Act* is now redundant.

Dictionary, definition of *current office*

The definition *current office* is now redundant.

Dictionary, new definition of *disability*

The new definition of *disability* has the same scope as the definition of *disability* in Div 3.7 of the Act.

Dictionary, new definition of *household member*

The definition of *household member* is intended to supplement the definition of *immediate family*.

Dictionary, new definition of *immediate family*

The definition of *immediate family* is intended to be exhaustive.

Dictionary, definition of *MPRA*

The definition *MPRA* is now redundant.

Dictionary, new definition *public holiday*

This definition of *public holiday* is intended to be descriptive given that public holiday can be prescribed in various ways by the

Standards or by a declaration of the Minister or the Commissioner for Public Administration.

Dictionary, definition of *Public Sector Management*

The definition of *Public Sector Management* is now redundant.

Dictionary, definition of *State*

The definition of *State* is redundant.

Dictionary, definition of *substantive office*

The new definition of *substantive office* means the office an officer occupies.

Dictionary, new definition of *supervisor*

The term *supervisor* is intended to supplement the term *manager* in the Act, Standards and industrial instrument operating in the ACTPS as this time.

Dictionary, new signpost definitions

In addition to the above amendments to the Dictionary, several signpost definitions have been inserted within the Dictionary as follows:

- (a) *promotion election*—section 74;
- (b) *temporary transfer*—section 81A; and
- (c) *transfer*—section 77.