

Legislative Assembly (Members' Staff) Member's Salary Cap Determination 2011 (No 1)

Disallowable instrument DI2011-52

Legislative Assembly (Members' Staff) Act 1989, s 10 (3) (Members may employ staff) and s 20 (4) (Members may engage consultants and contractors)

EXPLANATORY STATEMENT

Legislative Context

The *Legislative Assembly (Members' Staff) Act 1989* ("the Act") provides for the employment of staff, and the engagement of consultants or contractors, by members of the Legislative Assembly.

Subsections 10(1) and 20(1) of the Act give members the authority to employ staff, and engage consultants and contractors, respectively. Subsections 10(3) and 20(4) provide for the Chief Minister to determine in writing the conditions within which members may exercise that authority. Such a determination is a disallowable instrument.

Outline

This Instrument revokes disallowable instrument DI2010-156 which provided conditions under which members may employ staff and engage consultants or contractors, including interim salary allocations for the 2010-2011 financial year pending finalisation of an enterprise agreement for staff employed under the Act.

An enterprise agreement has now been approved. The enterprise agreement provides for a pay increase to staff of 2.5% with effect from 1 July 2010. This instrument determines new conditions which provide for this increase in staff salaries for the 2010-2011 financial year.

The new allocation is expressed to operate retrospectively as the pay increase applies from 1 July 2010. The retrospective effect of the commencement provision contained in this instrument has a non-prejudicial effect on persons other than the Territory or a territory authority.

Conditions

Numbered clause 2 sets the commencement of the instrument as 1 July 2010, the date of effect of the pay increase.

Numbered clause 5 revokes disallowable instrument DI2010–156.

Numbered clause 7(1) sets that the conditions apply to a member while the member holds a position listed in schedule 1 to the instrument during the specified period.

Numbered clause 7(2) sets that where a member holds two or more positions during this period, the conditions that apply to the period the member holds each relevant position will be considered separately.

Numbered clause 8(1) sets the condition that a member may only employ staff, or engage consultants or contractors, while the total amount payable for salary and payments do not exceed the prescribed salary cap while the member holds the relevant position.

Numbered clause 8(2) sets the formula for calculating the relevant salary cap. The formula provides that individual members may allocate part or all of the member's uncommitted salary allocation to another member, and to receive part or all of the uncommitted salary allocation from another member, in the form of a salary pledge.

The formula also provides for the carry over by a member of unexpended salary allocation from the 2009–2010 financial year. Numbered clause 8(3) limits the carry over to no more than 10% of the member's annual salary allocation for the 2009–2010 financial year. To remove any doubt about the applicable carry over in the circumstance where a member moves from one relevant position to another during the period, the clause also stipulates the carry over, if any, is that which exists in respect of the relevant position to which the member has moved.

Numbered clause 8(4) provides that a member may, with the written agreement of the Chief Minister, hire staff and consultants and contractors outside the salary cap in certain circumstances. These circumstances are set out in numbered clause 8(5).

Schedule 1 sets the new salary allocations for the relevant positions covered by the determination for the 2010–2011 financial year.