

EXPLANATORY STATEMENT

PUBLIC SECTOR MANAGEMENT AMENDMENT STANDARDS 2003 (No 4) DISALLOWABLE INSTRUMENT No 2003-53

Public Sector Management Act 1994

Legislative Context

The *Public Sector Management Act 1994* (the Act) regulates the management of the public sector and, in particular, section 251 of the Act empowers the Commissioner, with the approval in advance of the Chief Minister, to make Public Sector Management Standards (the Standards) for the purposes of the Act.

Sections 251(6) and (7) of the Act also provides that the Chief Minister can give a general approval for the making of Standards by the Commissioner for specified purposes. The purposes currently specified include amendments that are consistent with a policy direction previously endorsed by Government and changes of a technical nature, which do not include any significant policy changes, such as changes to clarify existing Standards, updating allowances and correcting typographical errors.

Outline

The Commissioner makes these amendments to the Standards in accordance with parameters agreed to by the Chief Minister under sections 251(6) and (7) of the Act. These amendments relate to the implementation of entitlements under the family-friendly package announced by the ACT Government as a result of enterprise bargaining negotiations (3rd round) for the Template Agreement of core conditions.

While the entitlements available under the package will be included in ACT Public Service agency Certified Agreements, progressively over 2003, the amendments to the Standards provide access to the entitlements to all ACT public servants at the same time.

The amendments provide that all ACT public servants may access the entitlements under the package from 11 March 2003. This is the date that the first ACT Public Service agency Certified Agreement, which includes the Template Agreement of core conditions was certified in the Australian Industrial Relations Commission. Accordingly, the amendments accommodate backdating until 11 March 2003 to provide access to all ACT public servants at the same time.

The first series of amendments deals with changes to the structure of discretionary leave arrangements. The amendments to other leave provisions under Standard 2 Part 1 (Rule 4), which covers Chief Executives and Executives, will enable the approval of additional leave associated with maternity leave.

Further, the amendments also clarify that the Commissioner for Public Administration determines whether such leave granted to a Chief Executive is with or without pay and to the extent that the leave counts as service. The amendments also include a

discretion for this leave to be taken at half-pay over double the period and where this leave is approved on half-pay, this period of leave counts as service for all purposes.

Similar amendments are made to discretionary leave provisions under Standard 3 Part 21 (Rule 20), which covers ACT public servants (other than a Chief Executive or Executive) to enable the approval of additional leave associated with maternity leave. This amendment also includes a discretion for the approval of this leave on half-pay over double the period and where this leave is approved on half-pay, this period of leave counts as service for all purposes.

The second series of amendments sets in place a new entitlement to primary care givers' leave as part of parental leave under Standard 3 Part 21 Rule 21. This entitlement allows an ACT public servant to access 14 weeks paid leave, where the employee demonstrates that they are the primary care giver of a new born or adopted child and they met the eligibility criteria for the leave. This leave counts towards an employee's service for all purposes.

Further, the new leave arrangement also provides the option for the employee to double the length of primary care givers' leave at half-pay, with the additional period of leave to count as service for all purposes. The arrangements also provide that ACT public servants, in relation to the caring for the same child, may share the 14 weeks paid leave, provided that the employee who is eligible for maternity leave is fit to return to duty under section 173 of the Act.

The amendment also provides that the leave arrangements for parental leave (including primary care givers' leave) apply to Chief Executives and Executives. To facilitate this, technical amendments are also made to Standard 3 Part 21 (Rules 1 and 2). These amendments also provide for the introduction of unpaid paternity leave, for up to five (5) days unpaid leave, which may be taken at the time of the adoption or birth of a child while their spouse is on a period of paid maternity or primary care givers' leave.

These amendments also clarify that a period of unpaid parental leave does not break the continuity of service of an employee and removes incorrect references to the application of the Commonwealth *Workplace Relations Act 1996*.

The third amendment deals with changes to the structure of recreation leave entitlements. This includes that an ACT public servant may access their available recreation leave for the purposes of maternity or parental leave, on full pay, or half pay for double the leave period.

The final amendment relates to changes to the definition of spouse to provide for the recognition of relationships between persons of the same sex.

Financial Impact

The entitlements under the family-friendly package will be funded by ACT Public Service agencies from existing budgetary allocations.