

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2016 (No 2)

Disallowable instrument DI2016-298

Legislative Assembly (Members' Staff) Act 1989, s 5 (3) (Office-holders may employ staff) and s 17 (4) (Office-holders 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 office-holders (Ministers and "the Speaker") of the Legislative Assembly.

Subsections 5(1) and 17(1) of the Act give office-holders the authority to employ staff, and engage consultants and contractors, respectively. Subsections 5(3) and 17(4) provide for the Chief Minister to determine in writing the conditions within which office-holders may exercise that authority. Such a determination is a disallowable instrument.

Outline

This Instrument revokes disallowable instrument DI2016-112 which provided conditions under which the Speaker may employ staff and engage consultants or contractors, including the salary allocation for the 2016–2017 financial year. The instrument determines a new allocation for the Speaker for 2016-2017.

The determination is dated to operate from 1 July 2016 and is non-prejudicial as the allocation represents an increase on the allocation provided under DI2016-112. The increase is the result of an error in the calculation advised to the Speaker for the employment of staff by the Office of the Legislative Assembly, and the subsequent engagement, in good faith, of staff from 14 November 2016 based on that advice.

The determination provides the authority for the Speaker to allocate part or all of the Speaker's uncommitted salary allocation to another member, and to receive part or all of the uncommitted salary allocation from another member.

The determination also provides the authority for the Speaker to carry over up to a maximum of 10% of the Speaker's salary allocation remaining unexpended from the 2015–2016 financial year.

Conditions

Numbered clause 2 sets the commencement of the instrument as 1 July 2016.

Numbered clauses 3 and 4 contain technical provisions.

Numbered clause 5 revokes disallowable instrument DI2016-112.

Numbered clause 6 sets that the instrument determines the conditions that apply to the hire, by the Speaker, of staff, contractors and consultants under the Act.

Numbered clause 7 sets that the conditions apply to a person while the person holds the office of Speaker during the specified period. The specified period commences on 1 July 2016 and ends on 30 June 2017, or the date on which the instrument is revoked, whichever is the later.

Numbered clause 8(1) sets the condition that the Speaker may only employ staff, or engage consultants or contractors, while the total amount payable for salary and payments do not exceed the salary cap, while the Speaker holds office during the period, worked out in accordance with the prescribed formula.

Numbered clause 8(2) sets the formula for calculating the relevant salary cap during the specified period. The formula provides that the Speaker may allocate part or all of the Speaker'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 the Speaker of unexpended salary allocation from the 2015–2016 financial year. Numbered clause 8(3) limits the carry over to no more than 10% of the Speaker's annual salary allocation for the 2015-2016 financial year.

Numbered clause 8(3) also sets the new salary allocation for the Speaker during the specified period. The salary amounts are provided in four parts, corresponding to the respective period as specified. The allocation for the fourth period has been increased to cover the full salary cost of staff already engaged by the Speaker for the remainder of the 2016-2017 financial year.

Numbered clause 8(4) provides that an amount payable for salary to a staff member for a period of leave may be excluded from the Speaker's salary cap where specified conditions are met. Subclauses (a) to (d) set out the specified conditions.

Numbered clause 8(5) requires that an amount may only be excluded from the Speaker's salary cap if the Clerk of the Legislative Assembly is satisfied that all of the specified conditions have been met.