

Australian Capital Territory

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2024 (No 1)

Disallowable instrument DI2024-4

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

The instrument revokes disallowable instrument DI2023-174 which provided conditions under which the Speaker may employ staff and engage consultants or contractors, including interim salary allocations for the 2023 – 2024 financial year pending the negotiation of a replacement enterprise agreement for staff employed under the Act.

A replacement enterprise agreement has now been approved by the Fair Work Commission. The enterprise agreement provides pay increases and additional salary rates to staff, applying from the agreement's commencement date 29 December 2023. Pay increases to staff include the flat rate increase of \$1,750 with effect from 7 December 2023 and new salary rates with effect from agreement commencement. This instrument determines revised salary allocations which provide for the payment of salary increases and the utilisation of new salary rates for the 2023 – 2024 financial year.

The instrument 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 instrument 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 2022–2023 financial year.

Conditions

Numbered clause 2 sets the commencement of the instrument as 29 December 2023.

Numbered clauses 3 and 4 contain technical provisions.

Numbered clause 5 revokes disallowable instrument DI2023-174.

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 29 December 2023 and ends on 30 June 2024, 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 specified 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. 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 2022–2023 financial year.

Numbered clause 8(3) limits the carry over to no more than 10% of the Speaker's annual salary allocation for the 2022–2023 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.