

Legislative Assembly (Members' Staff) Members' Salary Cap Determination 2024 (No 3)

Disallowable instrument DI2024-310

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

The instrument revokes disallowable instrument DI2024-141 which provided conditions under which members may employ staff and engage consultants or contractors, for the 2024–2025 financial year.

The instrument determines new allocations following the declaration of the poll for the eleventh Legislative Assembly. New allocations are provided with the agreement of the Chief Minister for the ACT Greens non-Executive party leader, ACT Greens non-Executive members, and independent non-Executive members forming the crossbench.

The separate allocation for Government whip and Opposition whip no-longer includes the ACT Greens whip. The allocation for the ACT Greens whip is to be at the same level as the ACT Greens non-Executive members for the 2024-2025 financial year.

The instrument provides the authority for a member to 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. The instrument also provides the authority for a member to carry over up to a maximum of 10% of the member's salary allocation remaining unexpended from the 2023–2024 financial year.

The new allocations are to operate from 31 October 2024 the day immediately following the date of formal declaration of the poll and the date from which members of the eleventh Legislative Assembly may employ staff. The retrospective date of effect of the instrument is non-prejudicial as the new allocations for the ACT Greens non-Executive party leader,

ACT Greens non-Executive members and independent non-Executive members along with the ACT Greens whip are higher than those provided under the previous allocation for the 2024-2025 financial year.

Conditions

Numbered clause 2 sets the commencement of the instrument as 31 October 2024.

Numbered clauses 3 and 4 contain technical provisions.

Numbered clause 5 revokes disallowable instrument DI2024-141.

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

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. The specified period commences on 1 July 2024 and ends on 30 June 2025, or the date on which the instrument is revoked, whichever is the later.

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 specified 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 2023–2024 financial year.

Numbered clause 8(3) limits the carry over to no more than 10% of the member's annual salary allocation for the 2023–2024 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 an amount payable for salary to a staff member for a period of leave may be excluded from a member'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 a member's salary cap if the Clerk of the Legislative Assembly is satisfied that all of the specified conditions have been met.

Numbered clause 9(1) provides that a member may make staff, consultants or contractors under the member's hire available to other members or office-holders.

Numbered clause 9(2) provides that for the purposes of remaining within a member's salary cap, the member may reimburse another member or office-holder an amount equal to the salary or payments paid for the services of staff, consultants or contractors provided to the member under a secondment arrangement between the member and other member or office-holder.

Schedule 1 sets the new salary allocations for the relevant positions covered by the instrument for the 2024-2025 financial year. New allocations for a crossbench party leader, crossbench party member and crossbench member have been included.

The Dictionary includes new definitions for *crossbench party leader*, *crossbench party member* (which intends to include the ACT Greens whip) and *crossbench member*. The definitions for *other member* and *party whip* have been amended accordingly.