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**ACT PS**  
**EXECUTIVE**  
**HANDBOOK**

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(JULY 2007)



AUSTRALIAN
CAPITAL TERRITORY

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INTRODUCTION

ACT Public Service (ACT PS) executives¹ are employed under a single, Service-wide contract system. This system was introduced, amongst other things, to consolidate employment arrangements for executives, and to strengthen individual performance and accountability.

The executive contract system

This Handbook provides an overview of executive employment, discussing the terms, conditions and entitlements as laid down in the:

- the instrument of employment (the executive contract);
- the *Public Sector Management Act 1994* (the PSM Act);
- the Public Sector Management Standards (PSM Standards) or other instruments made from time to time under the PSM Act;
- determinations made by the ACT Remuneration Tribunal under the *Remuneration Tribunal Act 1995*; and
- other Acts of the Australian Capital Territory (the Territory) as applicable.²

The Contract

The contract establishes the employment relationship between the executive and the Territory as the employer. Unlike non-executive ACT PS officers, executives *do not* have tenure: the duration of employment is governed by the terms of contract. There are two classes of contract:

- ‘long-term’ contracts, which cannot exceed five years; and
- ‘short-term’ contracts, which may operate for up to two years.

Executive contracts provide details of the terms of employment, such as remuneration, length of contract, termination provisions and obligations, and, in the case of long-term contracts, incorporate a performance agreement detailing agreed deliverables specific to the job. In respect of short-term contracts, it is normal practice for the executive to adopt the existing performance agreement for the position. If an agreement does not exist, one needs to be developed with the relevant chief executive if the contract period is more than three months.

¹ For the purposes of this Handbook, the term ‘Executive’ includes ‘Chief Executive’, except where otherwise specified.

² Neither awards nor Workplace Agreements apply to Executives.

The Public Sector Management Act

The PSM Act enables the use of contracts to employ executives. The PSM Act also sets out generally applicable obligations, responsibilities and conditions of service, such as long service leave and maternity leave entitlements. These common conditions apply to all Territory staff employed under the PSM Act (executives and non-executives).

The Public Sector Management Standards

The PSM Standards support the employment framework contained in the PSM Act. Not all sections of the PSM Standards apply to executives. Conversely, in a small number of cases, sections of the PSM Standards apply to executives only.

Determinations of the ACT Remuneration Tribunal

The Remuneration Tribunal (the Tribunal) is empowered to determine the remuneration, allowances and other entitlements to be granted to executives. It must review remuneration, allowances and entitlements for executives annually. Any person may make a written submission to the Tribunal prior to its annual reviews.

To date, the Tribunal has made determinations covering executive salary rates, various employer provided benefits or allowances in lieu of benefits, a salary packaging scheme, and relocation expenses for executives engaged from interstate.

It should be noted that any Territory or Commonwealth law, or instrument or appointment prevail over an existing Tribunal determination to the extent of any inconsistency.

Current determinations are available at the Governance Division website www.psm.act.gov.au or the Remuneration Tribunal website www.cmd.act.gov.au/remtrib.

Chief Minister's Department

Administering Chief Executive

The Chief Executive of the Chief Minister's Department is the 'administering chief executive' under the PSM Act and has responsibility for all matters relating to short-term chief executive contracts, reengagement of executives, management of Service-wide executive numbers, and the maintenance of executive establishment, that is, the creation/abolition of executive positions.

Note, the Chief Minister has the responsibility for signing long-term chief executive contracts and for their reengagement.

Employment Policy Section

The Employment Policy Section, Public Sector Management, Governance Division, Chief Minister's Department, is responsible for policy advice on the administration of executive contracts. The Section coordinates administrative arrangements for chief executive contracts and the establishment action and approval for new executive jobs, and maintains a database for record keeping and statistical purposes. The Section also arranges the tabling of long-term and short-term contracts and contract variations in the Legislative Assembly, and the Gazettal of long-term contracts following advice from agencies.

Inquiries regarding executive employment can be made to the executive contact officer (telephone 620 77844), Assistant Manager, Employment Policy (telephone (620 75586, or the Senior Manager, Employment Policy (telephone 620 75995).

Agency/Shared Services Centre Responsibilities

Agencies and the Shared Services Centre are responsible for the coordination of selection processes for executive positions, the engagement of executives, and the management of all contracts and contract variations.

Agencies are required to provide Employment Policy Section, Public Sector Management, Chief Minister's Department, copies of *all* contracts and contract variations for tabling in the Legislative Assembly, and in the case of long-term contracts, for Gazettal. The PSM Act requires that all contracts be tabled within *six sitting days* after being made.

Agencies administer executive entitlements/allocations such as motor vehicles, mobile telephones, lap top PCs, travel bookings, and reimbursement of other appropriate and relevant employment and administration expenses.

Pay Processing

The Shared Services Centre is responsible for the pay processing for executives. Inquiries regarding pay arrangements, superannuation and leave entitlements should be directed in the first instance to the agency's relevant Human Resource area of Shared Services Centre. The Customer Service Portal for the Centre can be viewed at <http://sharedservices>.

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CHAPTER 1

General Obligations

1.1 Values and Ethics

In performing their duties, all ACT PS employees, including executives, must comply with the general obligations, or code of ethics, set out in section 9 of the PSM Act.

A breach of section 9 may constitute grounds for suspension and termination. The contract also includes provisions about disclosure of confidential information and the requirement that executives provide information about their financial interests.

The ACT PS Ethics Handbook is also available under 'A-Z listing of publications' on the Governance Division website <http://www.psm.act.gov.au>.

1.2 Disclosure of interests

All executives are required to provide a written statement of their personal and financial interests on commencement. For a chief executive, this statement should be provided to the relevant Minister for information and forwarded to the Chief Executive, Chief Minister's Department. For an executive, this statement is to be provided to the relevant chief executive. The statements are securely stored.

The purpose of disclosure is to ascertain and address any conflict, or perceived conflict, of personal interest and public duty. **This written statement should be updated:**

- every twelve months as part of an annual performance review;
- as soon as possible after any relevant facts have come to the employee's notice; and
- whenever the circumstances change.

A potential conflict of interest arises where private interests are, or may be, or are perceived to be, in conflict with official duties. That is, a potential conflict can be either real or apparent. These interests can be either financial (such as directorships, share-holdings, ownership of real estate and/or being the trustee or beneficiary of a trust), or personal (such as personal relationships built on common interests like sporting, social or cultural activities, as well as family and other personal relationships), and can sometimes extend to the interests of an executive's immediate family.

Executives are not only required to disclose their interests, but also take any reasonable steps to avoid a conflict, or an appearance of conflict.

Maintaining public confidence in the integrity and honesty of the ACT PS is crucial to the operation of Government and the Service. Decisions made by executives should be seen, both within and outside the ACT PS, as being totally professional and beyond reproach. Decisions are also likely to be subject to both internal and external scrutiny.

1.3 Second jobs

Sections 35 and 244 of the PSM Act deal with second jobs and apply to employment of chief executives and executives. In all cases, prior written approval must be obtained before engaging or continuing in other employment or professional practice or acting as a director of a company or incorporated society (otherwise than in accordance with public service duties).

In the case of chief executives, written approval must be sought from the Chief Executive, Chief Minister's Department. In the case of executives, written approval must be sought from the relevant chief executive.

1.4 Other contractual requirements

1.4.1 General principles

Under the contract executives are required to warrant that:

- they are and will continue to be a fit and proper person; and
- they have no prior criminal convictions other than those (if any) disclosed.

1.4.2 Fit and proper person

The term "fit and proper" is usually taken to involve three things; honesty, knowledge and ability. Beyond this, its meaning is to be determined by the particular circumstances of each case within the framework and nature of public service employment, the general obligations of public employees imposed by the PSM Act and PSM Standards, the terms of the contract and the duties performed.

1.4.3 Disclosure of criminal convictions

All new ACT PS employees, including executives, are required to complete a “police records check” form. This form:

- provides the opportunity for the executive to disclose any previous criminal convictions; and
- gives the employer the authority to ask the police to check records for any convictions.

A prior conviction does not necessarily mean that a person cannot be employed in the ACT PS as an executive.

Non-disclosure of a prior criminal conviction is a serious breach of the employment contract and may be grounds for termination of the contract.

1.4.4 Spent convictions

The obligation to disclose prior criminal convictions is subject to the *Spent Convictions Act 2000* for convictions recorded after 30 June 1990. After a period of ten years these convictions expire and an employer cannot ask that they be disclosed. The Spent Convictions Scheme contained in the *Crimes Act 1914* (Commonwealth legislation) applies to convictions up to 30 June 1990.

1.5 Executive Capabilities

Executive Capabilities are a way of describing the behaviours that characterise successful ACT PS executives and the values and personal attributes that support these behaviours. They also provide an integrated and consistent means of assisting executives to identify developmental needs and achieve significant and measurable growth in the five key areas:

- Leadership and Integrity;
- Strategic Vision;
- Management Acumen;
- Community and Service Focus; and
- Environment and Organisational Astuteness.

A booklet on Executive Capabilities for the ACT PS is available on the Governance Division website <http://www.psm.act.gov.au>.

CHAPTER 2

The Contract

2.1 Overview

The legislative basis for the employment of executives in the ACT PS is the PSM Act.

Under this Act, long-term contracts result following a merit process and can be up to five years while short-term contracts can be up to two years, however a merit process is required if the contract is for nine months or more, or it extends to nine months or more.

The long-term executive contract comprises:-

Main Body: includes such matters as general obligations, termination arrangements and disclosure;

Schedule A: includes name, work address, job title and number, level and the term of the contract;

Schedule B: sets out the value of the total remuneration package, and its components;

Schedule C: is an undertaking to enter into a performance agreement within twenty-eight days of commencement (note that failure to enter into a performance agreement within this timeframe may lead to consideration of the contract being terminated); and

Schedule D: is discretionary, and is the mechanism to enable the insertion of any agreed “special” conditions that may have been negotiated when the contract was offered. Schedule D may also be used to formalise any changed conditions negotiated and agreed after the commencement of the contract for example, extension of contract, and reassignment at level.

There is a short-form contract for short-term executive engagements that does not include a performance agreement as a formal part of the contract.

2.2 The contract process

2.2.1 Offer of a contract

The offer of an executive contract is made on behalf of the Territory by a letter of offer from the relevant chief executive, or the Chief Minister or administering chief executive in the case of chief executive contracts. The letter of offer is accompanied by a contract, an election form, a declaration of private interests proforma and, in the case of non-ACT PS staff, police records check forms.

The offer should be accepted, or in-principle agreement notified within twenty-one days. The documents are to be completed before the executive's commencement. For long-term contracts, the performance agreement **must** be completed within twenty-eight days of commencement. Performance agreements may be reviewed from time to time depending on operational and organisational changes, but will normally be reviewed at least at the beginning of each financial year to reflect changed budgets and purchase agreements. It is a requirement of the PSM Standards that all executives must participate in an annual review of performance.

Clause 2.3 provides further information on performance agreements.

Generally, officers of the ACT PS who accept a long-term executive contract will not have a right to return to the non-executive Service.

2.2.2 Signatories to the contract

The parties who will sign the contract are the executive and the relevant chief executive, or in the case of a long-term chief executive contract, the Chief Minister.

2.2.3 "Making" the contract

After the executive signs the contract, it should be forwarded to the relevant agency contact officer. Chief Executive contracts should be sent to Employment Policy Section, Public Sector Management, Chief Minister's Department.

In the case of long-term contracts, the performance agreement, which is a formal part of the contract, must also be forwarded when completed. Arrangements will then be made for the chief executive to sign and date the contract and performance agreement.

Once the contract is made, that is, when it is signed and, in the case of long-term contracts, the performance agreement is completed, agencies will provide the contract to the Employment Policy Section, Public Sector Management, Chief Minister's Department to arrange tabling in the Legislative Assembly within six sitting days of the date the contract is made. Arrangements will also be made to notify long-term contracts in the Gazette within twenty-eight days. The tabling and Gazettal of contracts are requirements under the PSM Act.

2.3 Performance management

2.3.1 Negotiation of a performance agreement

A part of the contract is an undertaking to enter into a performance agreement in certain circumstances. In the case of short-term contracts, a performance agreement is not a part of the formal contract, however one will need to be completed if one doesn't exist for the position and the contract period is more than three months.

If required, a performance agreement must be negotiated within twenty-eight days of commencement with the chief executive or, in the case of a chief executive, with the Chief Executive, Chief Minister's Department and the relevant Minister. The performance agreement is useful in monitoring performance and the progress of Government business. It is an essential component in the process for improving performance and accountability in the Service.

The performance agreement should reflect the responsibilities of the job and have regard to the Government's policies, initiatives and commitments. The performance agreement will incorporate reporting areas for the agency. It should also reflect Budget Papers and Outcomes, and any other requirements of the chief executive.

Performance agreements for executives will usually have a relationship to the relevant chief executive's performance agreement.

It is essential that the performance agreement contains meaningful performance indicators and timeframes against reporting commitments.

Section 41 of the PSM Standards specifies that executives must participate in an annual review of performance.

2.3.2 Key Accountabilities

Key Accountabilities in the performance agreement might include:

- the Government's key objectives;
- strategic plans in the executive's area of responsibility;
- leadership
- people management, including:
 - ~ implementing performance management plans;
 - ~ improved OH&S performance; and
 - ~ effective application of equity and diversity policies.
- financial management; and
- corporate behaviour, training and development;

as modified from time to time.

2.4 Variations to the contract

2.4.1 Reassignment - overview

There may be circumstances where it is necessary to review and revise current duties.

These changes may be short or long-term; they may have been initiated by the executive or agency; they may be as a result of the absence of another executive; a career development opportunity; or an agency restructure; and they may involve additional duties at the same, higher or lower level and/or a reduction in duties. These changed arrangements may be handled by way of a reassignment.

2.4.2 Reassignment at current level

The relevant chief executive (or Chief Minister in respect of chief executives) may transfer an executive to another position at the same level or assign the executive to undertake other duties. This will not affect the remuneration of the executive or alter the period of the long-term contract.

The views of the executive will be taken into consideration before a decision is made to transfer or re-assign the executive.

Where the transfer or assignment involves a change in reporting arrangements across agencies there will be consultation between the relevant chief executives.

2.4.3 Reassignment at a higher level

2.4.3.1 Short-term reassignment

Re-assignment at a higher level on a short-term basis might be appropriate due to:

- an absence of an existing executive;
- a vacancy because the previous occupant ceased employment; or
- the creation of a new position; or
- the need to fill a position prior to a formal selection process.

Where a short-term executive vacancy arises, the chief executive should consider filling the vacancy as a development exercise. There will be no change to the officer or executive's remuneration in these circumstances and the existing performance agreement for the job will generally be adopted. Where a contract is not issued, an instrument of delegation may be appropriate to ensure that the person performing the duties is able to exercise all the necessary powers associated with the position.

If the executive or officer is to be paid at the higher level then a short-term contract is required.

There are two versions of the contract, one for existing executives and one for non-executives. The contract for existing executives includes a provision to enable the executive to revert to their long-term contract at the completion of the short-term contract.

Where the contract is for less than three months, executives will usually adopt the existing performance agreement for the position, where one exists, rather than be required to develop a new one. A new performance agreement is required where the contract is for a period of three months or more and an agreement does not exist.

The PSM Act specifies that the maximum period for a short-term contract is two years. A merit process is required where the contract is for nine months or more. Although the PSM Act does not require a merit process for periods less than nine months, a chief executive may consider it appropriate to undertake a selection process by seeking expressions of interest in the Staff Bulletin. In some circumstances it may be appropriate to advertise the short-term vacancy more widely e.g. Gazette. Short-term vacancies may be filled by an existing executive, a non-executive or by engaging another person on a short-term basis.

2.4.3.2 Long-term reassignment

Where an independent work value assessment (by the approved provider) sets a higher remuneration point than an earlier work value assessment for that position, it is possible to vary an executive's long-term contract to increase remuneration (Section 39 of the PSM Standards refers).

The arrangement is restricted to movements within a Zone, for example, executive level 1.2 to 1.3. However, where the job responsibility increases with Zone 3, the contract variation is limited to no more than two executive levels, for example, executive level 3.7 to 3.9. In the case of a position that is resized in a higher zone, for example executive level 1.3 to 2.4 or 2.6 to 3.7, a merit process is required to fill the position on a long-term basis.

2.4.4 Extension of a long-term contract

If the initial long-term contract was for a period of less than five years it is possible to extend the contract, provided:

- the total period does not exceed five years; and
- the extension relates to the existing contract and the same work value level.

The contract may be extended more than once within the five-year limit.

An extension is at the discretion of the relevant chief executive (for executives) or the Chief Minister (for chief executives).

2.4.5 Extension of a short-term contract

Short-term contracts can be extended up to a maximum period of two years. If the contract is for nine months or more, merit applies. The PSM Act specifically prohibits any extension beyond this two-year period.

2.5 Long-term reengagements

At the expiration of an existing contract a new contract may be offered without a merit process, provided the duties are the same or similar. Reengagements may be for a period of up to five years, and the contract may be renewed successively.

In such cases, the subsequent contract must commence immediately after the previous contract. There is a requirement for the Chief Executive, Chief Minister's Department (as the administering chief executive) to certify in writing that it is in the interests of the

Service to reengage the executive. This certification would follow a recommendation by the relevant chief executive.

2.6 Termination of a contract

Termination provisions are prescribed in the contract.

2.6.1 Termination by an Executive

An executive may terminate a long-term contract at any time by giving eight weeks' notice in writing. An executive is not required to give reasons in the notice. In some circumstances it may be possible for the executive to reach agreement with the relevant chief executive to cease duty earlier.

An executive may terminate a short-term contract by giving one week's notice in writing.

2.6.2 Termination by the Employer – See Also Clause 4.9

The relevant chief executive may terminate the contract early where he/she is of the opinion that:

- the executive is guilty of serious or gross misconduct;
- the executive has failed to comply with the terms of the contract, including their performance agreement;
- operational requirements have changed, resulting in a substantial change in the nature of the work required; or
- the executive is in breach of their warranty in the contract.

In all cases, other than for the termination for gross misconduct where the termination may be without notice, the relevant chief executive shall give eight weeks' notice in writing. It may be appropriate for the executive to receive payment to be in lieu of work.

If the relevant chief executive terminates the contract, the executive will be provided with written notice, including an explanation of the reason for the termination.

2.6.3 Termination entitlements

On termination of the contract by the employer, the executive will be entitled to receive:

- payment in lieu of notice where applicable (annual salary only);
- payment of salary, allowances and entitlements to the date of cessation;
- payment of salary in lieu of accrued recreation leave; and/or
- payment of salary in lieu of accrued long service leave.

2.6.4 Termination benefits

The executive may also be eligible for payment of a “special benefit”. This benefit is prescribed in the PSM Act. The following entitlements are provided in the PSM Standards:

Where termination is because of:

- (a) serious or gross misconduct - no benefit payable;
- (b) failure to comply with the terms of the contract - no benefit payable;
- (c) changed operational requirements, except in the case of a * ‘transitional executive’ the prescribed benefit is two weeks’ remuneration for every completed year of continuous recognised service, up to a maximum of 44 weeks remuneration. (This is in addition to any notice period provided in the contract of employment);
- (d) a breach of the warranty in clause 16 of the contract - up to the equivalent of one month’s salary.

* Transitional Executive is defined in section 29, Part 3.1 of the PSM Standards as an ACT chief executive or executive who was an ACT Senior Executive Service officer immediately before the commencements of the *Public Sector Management (Amendment) Act 1995* and who has continuous service in the ACT PS since then.

In relation to Transitional Executives the special benefit is up to the equivalent of fifty-two weeks’ salary for the executive, where:

- the contract is terminated early due to changes to operational requirements that result in substantial change to the nature of the work required under the contract;
- at the end of the contract, they are not offered a new contract (provided the reason for not offering a new contract does not relate to poor performance, misconduct, or failure to disclose a prior criminal conviction); or
- at the end of the contract, they are offered a new contract with a significantly lower work value level but do not accept.

Where a special benefit is payable the amount is calculated having regard to the executive’s length of ‘recognised’ service. That is, ‘service calculated in the same way an officer’s period of service is calculated for long service leave under section 154 of the Act.’

2.7 Non-renewal of contract

Where an executive is not to be reengaged at the end of a long-term contract, the relevant chief executive (or Chief Minister in the case of chief executives) may give three months or more written notice that the person will not be reengaged. This also applies if an executive has been engaged for less than five years and the contract is not to be extended.

An amount equal to $\frac{1}{4}$ of the executive's final annual base salary is payable where the contract ends and the appropriate notice has not been given. This amount is not payable if the executive has accepted another position in the public sector or is entitled to a redundancy payment.

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CHAPTER 3

Executive Development and Mobility

3.1 Overview

Chief executives must have regard to the advice of the Chief Executive, Chief Minister's Department, when filling an executive office on a short-term or long-term basis. This is specified in the PSM Act.

This ensures, amongst other things, that in filling a vacancy the development needs of other executives and officers have been considered. It may be both appropriate and desirable to use an executive vacancy for development purposes.

3.2 Executive development programs

Training and development opportunities for executives are important. Some requirements may be identified through the annual review of performance or when the performance agreement is reviewed. When performance agreements are discussed with executives, specific training needs and opportunities should be examined and agreed. Others may be evident from strategic planning.

Both the Chief Minister's Department and agencies play key roles in sourcing training and development requirements. Agencies, and their executives, identify and source specific training and development opportunities for individuals within the agencies.

3.3 Mobility arrangements

In addition to these development programs, an executive will have the opportunity to be considered for both short-term and long-term vacancies either at or above the current executive level.

Mobility with other public services will be facilitated whenever development needs and the overall best interests of the ACT PS can be demonstrated.

CHAPTER 4

General conditions of service

4.1 Transfer costs

4.1.1 General

If an executive is recruited from outside the ACT, and moves to the ACT, Queanbeyan or the surrounding area to take up employment, the executive may be entitled to an allowance to **assist** in the payment of **some** of the costs associated with the move.

The allowance is in the form of reimbursement of expenses on production of receipts, or other acceptable evidence of expenditure. Some benefits e.g. assistance with rental costs may continue up to a maximum of six months.

The ACT Remuneration Tribunal (the Tribunal) determines executive relocation provisions including the maximum amount to be reimbursed to executives. Executives should refer to the latest determination and contact the relevant human resource area of Shared Services Centre or the agency executive contact officer to confirm their entitlements and to make arrangements to claim them. The latest executive determination, that includes the maximum entitlement can be accessed on the ACT Remuneration Tribunal website at www.cmd.act.gov/remtrib.

4.1.2 Benefits available through the relocation allowance

The range of benefits that may be available to the executive, on a reimbursement basis, include:-

- packing of personal effects and furniture belonging to the executive and his or her partner and family;
- necessary storage of personal effects and furniture;
- removal costs and associated insurance of personal effects and furniture;
- unpacking of personal effects and furniture;
- costs of travel, accommodation and meals between the former location and the ACT, Queanbeyan and surrounding district;
- temporary accommodation costs at the former location and in the ACT, Queanbeyan and surrounding district subject to a maximum period in all of six months, or in exceptional circumstances, nine months with the approval of the Tribunal;

- costs of disconnection and reconnection of utilities;
- stamp duty costs;
- costs of legal and professional services associated with the sale of the residence at the former location and/or the purchase of a residence or lease on a block of land in the ACT or the purchase of a residence or a block of land in Queanbeyan or surrounding district; and
- subject to the approval of the ACT Remuneration Tribunal, any other reasonable expenses necessarily incurred in relocating.

4.2 Remuneration

4.2.1 The ACT Remuneration Tribunal

The Tribunal is an independent body established by the *Remuneration Tribunal Act 1995* with jurisdiction over executives and a range of other offices. It is required to undertake reviews of remuneration and other entitlements for executives at least annually.

4.2.2 Method for setting remuneration

The Tribunal determines executive remuneration annually, with determinations coming into force on 1 July each year. The Tribunal has regard to the work value level of the office as assessed using an independent job-sizing methodology (by the approved provider - currently Mercer Human Resource Consulting).

4.2.3 Allowances and Employer Provided Benefits

The Tribunal also has jurisdiction to determine allowances and other entitlements to the extent that an allowance and entitlement of a particular kind is not paid or granted under a law of the Territory or the Commonwealth.

In addition to the relocation allowance mentioned above, the Tribunal has determined various employer provided benefits and a salary packaging scheme. The Tribunal has also determined that an allowance may be paid in lieu of some employer provided benefits.

When an executive chooses a benefit this usually remains in force until the following 30 June, at which time elections may be varied. However, in the case of the vehicle entitlement, if an executive elects to be provided with a vehicle, the election cannot be changed until the vehicle is due to be replaced (as set out in the vehicle lease). Note, the Tribunal's determination does not allow the vehicle parking benefit to be converted to an allowance if the vehicle entitlement is chosen.

4.3 Superannuation

If the executive is a member of the Commonwealth Superannuation Scheme (CSS) or the Public Sector Superannuation Scheme (PSS), or has a preserved or deferred benefit in one of these schemes, the employer superannuation contributions will be paid to that scheme.

If the executive is not a member of CSS or PSS they may elect to join First State Super (the default scheme for the ACT Government) or have employer superannuation contributions directed to a superannuation fund nominated by the executive provided that the fund complies with all relevant superannuation legislation requirements of the relevant taxation legislation.

In choosing a superannuation fund it is the executive's responsibility to meet any employee requirements of the fund.

Since 1 July 2006, employer superannuation contributions depend on whether or not the executive is currently a member of the PSS or CSS superannuation schemes.

If a new executive is an existing member of the PSS or CSS scheme, employer contribution arrangements will continue to be made to the relevant fund. The schemes, however, have been closed off to new members.

In respect of executives who are not CSS or PSS members, the employer contribution is 9% of the salary component of the contract, or 10% if the executive contributes 3% or more of his or her salary component, to an agreed superannuation fund in the form of superannuation contributions. The First State Super fund is an agreed superannuation fund.

The employer superannuation contributions are prescribed in section 42 of the PSM Standards.

It is advisable that the executive seeks professional advice in relation to the superannuation arrangements that best suit them.

4.4 Vehicle

A government provided vehicle must be a **four-cylinder** vehicle.

Vehicle entitlements are covered in part 7.3 of the PSM Standards and the *Guidelines for the Management and Use of Executive Vehicles*. An indicative list of approved vehicles is in a Schedule to the Guidelines.

4.5 Salary packaging

Executives may participate in salary packaging arrangements subject to the conditions prescribed in the Tribunal's determination and the salary packaging guidelines issued by the Commissioner for Public Administration. In accordance with the guidelines, executives may be required to obtain professional advice before participating in the salary packaging scheme. Information about the scheme may be obtained from the relevant executive contact officer or the relevant human resources areas of the Shared Services Centre.

Full details of the policy for salary packaging are also available on the Governance Division website www.psm.act.gov.au.

4.6 Leave

See the 'Leave' Information Note that is available on the above website.

4.6.1 Recreation leave

An executive is entitled to the equivalent of four weeks recreation leave. Recreation leave may be granted at half pay.

Executives must seek prior approval from the relevant chief executive before taking recreation leave and ensure that a leave application is forwarded to the relevant human resources area. Chief executives should advise the Minister of any proposed leave.

Recreation leave is covered in section 31 and Part 4.16 of the PSM Standards.

4.6.2 Personal leave

On commencement the executive has a personal leave credit of 18 days at full pay. On each anniversary of the executive's commencement a further 18 days will be credited. Note that eligible prior service may be recognised for personal leave purposes.

Whenever possible the executive should obtain a medical certificate covering any sick leave absences.

There are a number of conditions applicable to personal leave and the executive should seek advice from the relevant human resources area for further details.

There are different personal leave entitlements in respect of executives engaged for a period of twelve months or less.

Personal leave for executives is covered in section 30 and Part 4.17 of the PSM Standards.

4.6.3 Bereavement leave

An executive is entitled to an additional three days full paid personal leave (non-accumulative) on each occasion of a death of a member of their immediate family or household. The delegate may approve leave for bereavement purposes on the death of a foster parent, step parent, step sibling, guardian or foster child. Bereavement leave for executives is covered in sections 393 and 395 of the PSM Standards.

4.6.4 Long service leave

Long service leave (LSL) of three months' full-pay accrues after ten years' recognised service, and thereafter at the rate of nine calendar days per year.

Unlike other forms of leave, LSL is calculated on calendar days. The executive may elect whether to take LSL at full-pay or at half-pay. Unused credits will be paid-out at the conclusion of employment.

Details of long service leave are covered in Part 7 of the PSM Act.

Eligible prior service may be recognised for long service leave purposes. Section 403 of the PSM Standards provides further details.

4.6.5 Maternity leave

Paid maternity leave is available and details are included in the Part 8 of the PSM Act. Advice can be obtained from the relevant human resources area.

4.6.6 Parental leave

An executive may have an entitlement to various forms of parental leave where they are the primary care giver of a new born or adopted child – refer to Division 4.20.3 of the PSM Standards.

4.6.7 Leave for other purposes

An executive may need to access leave for purposes other than outlined above. The relevant chief executive may grant an executive leave on a case-by-case basis, with or without pay – refer to section 32 of the PSM Standards.

4.6.8 Access to recreation and long service leave

An executive may apply at any time for recreation leave or LSL where an entitlement exists. Such applications are granted at the discretion of the relevant chief executive.

4.6.9 Christmas Shutdown

An executive is entitled to two days paid leave for those working days during the Christmas shutdown period where a public holiday does not fall – refer to Division 4.20.2 of the PSM Standards.

4.7 Suspension and misconduct

4.7.1 General principles

The suspension and misconduct provisions for executives are provided in the contract.

There are no provisions in the contract or the PSM Act or Standards to enable an appeal against a decision to suspend or to terminate employment on grounds of misconduct.

4.7.2 Suspension

The employer can suspend an executive from duty at any time after having formed the reasonable opinion that the executive is, or may be, guilty of misconduct. The executive will be provided with a written notice of suspension containing the reason for the suspension and the expiration or review date.

The suspension may be with or without pay. While it would normally be expected that a suspension would be without pay the employer may have regard to the reasons for the suspension and the potential for financial hardship.

Ultimately, an executive's contract may be terminated on the grounds of serious or gross misconduct.

The contract includes further details regarding suspension and termination.

4.7.3 Misconduct

Misconduct includes a breach of section 9 of the PSM Act that details each executive's general obligations as an employee.

4.8 Grievance and discipline resolution

4.8.1 General principles

Provisions in the PSM Act relating to grievances and appeals **do not** apply to executives. Grievances and appeals may be dealt with through an informal process.

4.8.2 Informal grievance/appeal process

Most issues in relation to executive employment can be resolved through regular communication; or through advice from the various particular areas (eg. Corporate Services, the Employment Policy Section, Public Sector Management, Chief Minister's Department). However there may be some instances where an executive may prefer to seek an informal review.

The first option is to seek a review of the matter by the relevant chief executive. The second is to seek a review by the Chief Executive, Chief Minister's Department (this is the first option for chief executives). The final avenue is a review by another, agreed person such as a chief executive from another agency or a person not employed in the ACT PS.

Such an independent review would focus on realistic outcomes and resolution through adoption of recommendations. There are no decision-making powers associated with an informal review.

4.9 Entitlements on resignation

Executives are entitled to the payment of any outstanding salary, and any accrued recreation leave and long service leave.

Note, recreation leave and long service leave payments are calculated on cash salary and do not include any employer provided benefits or cash in lieu of such benefits.

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